



FB
28

MINISTRY OF HEALTH

TOWN AND COUNTRY
PLANNING

The Royal Sanitary Institute
Library.

MODEL CLAUSES FOR USE IN
THE PREPARATION OF SCHEMES
(With Notes)

FEBRUARY 1937

LONDON

PRINTED AND PUBLISHED BY HIS MAJESTY'S STATIONERY OFFICE

To be purchased directly from H.M. STATIONERY OFFICE at the following addresses:

Adastral House, Kingsway, London, W.C.2; 120 George Street, Edinburgh 2;

26 York Street, Manchester 1; 1 St. Andrew's Crescent, Cardiff;

.80 Chichester Street, Belfast;

or through any bookseller

1937

Price 2s. 0d. net

WA790
1937
G78T

2948

35079282

		Page 5	
GENERAL NOTE		Clause	Page
CONTENTS			
PART I. GENERAL.			
Short title and arrangement of Scheme	...	1	7
Interpretation	...	2	7
Area of Scheme	...	3	9
Responsible Authorities	...	4	9
PART II. RESERVATION OF LANDS.			
Reservation of lands	...	5	11
Buildings, etc., not to be erected on reserved lands	...	6	11
Acquisition of land	...	7	13
Power to maintain open spaces	...	8	15
Uses of private open spaces	...	9	15
Release of land from reservations for new streets or widenings where a standard width is adopted under the Restriction of Ribbon Development Act, 1935	...	10	15
PART III. STREETS AND BUILDING LINES.			
Interpretation	...	11	17
<i>Streets.</i>			
Sites of new streets and widenings	...	12	19
Execution of street works on reserved land	...	13	19
Land adjoining sites of streets	...	14	21
Application of Private Street Works Act, 1892 [Section 150, etc., of the Public Health Act, 1875.]	...	15	21
Number and sites of new streets to enter classified roads	...	16	23
Expenses of constructing sewers	...	17	27
Construction of streets by owners	...	18	27
Communicating streets	...	19	31
Notice of commencement and completion of streets	...	20	33
Diversion or stopping up of highways	...	21	33
<i>Building lines, etc.</i>			
Fixing of building line for new street not shown on Map	...	22	35
Fixing of building line for existing street for which no building line is shown on Map	...	23	37
Effect of building line	...	24	37
Modification of building lines where a standard width is adopted under the Restriction of Ribbon Development Act, 1935	...	25	39
Suspension of Public Health (Buildings in Streets) Act, 1888	...	26	41
Prevention of obstruction to view at corners and bends	...	27	41
PART IV. BUILDING RESTRICTIONS AND USE OF LAND.			
Interpretation	...	28	41
Predominant use of buildings	...	29	45
<i>Erection and use of buildings and use of land.</i>			
Erection and use of buildings	...	30	45
Use of land	...	31	51
Advertisement and third party appeal in certain cases	...	32	51
Offensive trades	...	33	53
Saving for special purposes	...	34	53
<i>Density.</i>			
Declaration of land units	...	35	53
Restriction of building in relation to land units	...	36	55
Number of dwelling houses which may be erected	...	37	57
Number of flats which may be erected	...	38	59
Minimum size of plots	...	39	59
Land units vested in more than one owner	...	40	59
Registration of land units	...	41	61
<i>Space about buildings.</i>			
Proportion of site which may be occupied by buildings	...	42	61
Breaks in buildings	...	43	63
<i>Height of buildings.</i>			
Limitation of height of buildings	...	44	65

WELLCOME INSTITUTE LIBRARY	
Coll.	welMOmec
Call	
No.	tm571



22900393803

PART IV.—*cont.*

Clause Page

External appearance of buildings.

External appearance of buildings	45	67
----------------------------------	-----	-----	-----	----	----

Siting of buildings.

Siting of buildings...	46	69
------------------------	-----	-----	-----	----	----

General.

Buildings and plots partly within Area	47	71
--	-----	-----	-----	----	----

PART V. GENERAL AMENITY AND CONVENIENCE.

Interpretation	...	...	...	48	71
Preservation of trees	...	...	...	49	71
Protection of woodlands	...	...	...	50	75
Maintenance of private gardens, etc.	...	...	...	51	75
Advertisements	...	...	...	52	75
Provision of loading accommodation	...	...	...	53	77

PART VI. MAINTENANCE, USE, ALTERATION, EXTENSION AND REPLACEMENT OF EXISTING BUILDINGS, AND CONTINUANCE OF EXISTING USE OF LAND.

Power to prohibit maintenance or use of existing buildings and continuance of existing use of land	...	54	79
Existing buildings, and uses of land for which approval may be sought	...	55	79
Alterations and extensions of existing buildings	...	56	81
Replacement of existing and certain other buildings	...	57	81
Power to prohibit alterations, etc., of existing and certain other buildings	...	58	83
External appearance of alterations, etc.	...	59	83
Buildings used for more than one purpose	...	60	83

PART VII. PLANS, APPROVALS, APPEALS.

Submission of plans	...	61	85
Approvals and consents	...	62	87
Appeals	...	63	89

PART VIII. MISCELLANEOUS.

Agreements	...	64	91
Adjustment of boundaries of estates	...	65	91
Application of Scheme to development uncompleted at commencement of Scheme	...	66	91
Application of Scheme to development prior to operation of Scheme	...	67	93
Fulfilment of conditions	...	68	93
Disposal of land	...	69	93
Appropriation of land	...	70	93
Provisions as to commons, open spaces and allotments	...	71	93
Entry on land for inspection	...	72	95
Penalties	...	73	95
Application of money received by Council	...	74	95
Suspension of byelaws, local Acts, etc.	...	75	95
Register of permissions and conditions	...	76	97
Extension of time for claiming compensation or betterment	...	77	97
Exclusion of claims for compensation	...	78	99
Charging Orders	...	79	99
Maintenance of registers and supply of copies of notices	...	80	101
Inspection of Scheme	...	81	101
Service of notices	...	82	101
Saving for powers of local authorities	...	83	103
Saving for works below high-water mark	...	84	103
Saving for Crown lands	...	85	103
Saving for agricultural buildings	...	86	103
Saving for advertisements	...	87	105
For the protection of the Postmaster-General	...	88	105
Supplementary orders	...	89	105

SCHEDULES.

	Page
First Schedule (Relaxation of byelaws as to new streets)	107
Second Schedule (Highways to be diverted or stopped up)	109
Third Schedule (Special industrial buildings)	109
Fourth Schedule (Constitution and procedure of tribunal of appeal)	111
Fifth Schedule (Agreements)	111
Sixth Schedule (Special interim development permissions)	113
Seventh Schedule (Charging Order)	113

Appendix I.

Definitions in Section 53 of the Town and Country Planning Act, 1932	115
---	-----

Appendix II.

Alternative and Supplementary Clauses—

1. Alternative Clause 4 (Responsible Authorities)	119
2. Supplementary Clause 7A. (Acquisition of land for cemeteries)	121
3. Amendments to be made where it is decided to include special provisions as to underground working of minerals...	121
4. Alternative Clause 16 (Number and sites of new streets to enter classified roads)	121
5. Alternative Clause 80. (Maintenance of registers and supply of copies of notices)	123
6. Alternative Clause 81. (Inspection of Scheme)	125

Town and Country Planning

Model Clauses for use in the Preparation of Planning Schemes

GENERAL NOTE

The principal amendments which have been included in this edition of the clauses are set out below.

N.B.—The explanatory notes on the left-hand pages have, in several instances, been substantially re-cast. These alterations are not listed below, but all the notes should be studied carefully.

Clause number.		
1935	1937	
edition.	edition.	
2	2	Definition of "Public Health Acts."
6	6	Additions to sub-clause (2).
—	10	New clause.
10	11	Definitions of "private street" and of "cost of standard street" revised.
—	13	New clause (substituted for sub-clause (4) of old clause 11).
13	15	Minor amendments to paragraphs (3) and (5) (ii) and (iii).
14	16	New sub-clause (5).
16	18	Clause redrafted: now agrees with new clause 46. Old sub-clause (7) deleted.
—	25	New clause: and consequential addition to new clause 77.
25	28	Definition of "flat" included.
31	34	Paragraph (vi) deleted: <i>see</i> new clause 87.
32-40	35-41	"Dwelling-house" substituted for "building unit" throughout: references to "residential buildings" deleted.
32	35	Sub-clause (2) redrafted: new sub-clauses (5) and (7).
33	36	New sub-clause (2).
34	—	Clause deleted.
—	38	New clause.
37	—	Clause deleted.
38	—	Clause deleted.
41	42	Opening words redrafted: blocks of flats transferred to column 2: references to flats in proviso (i).
42	43	Proviso (a) to sub-clause (2) deleted: new paragraph inserted after proviso (b).
44	45	Sub-clauses (1) and (2) redrafted: now agrees with new clause 46. Addition to sub-clause (4).
—	46	New clause: and consequential additions to new clauses 77 and 78.
50	52	Sub-clause (4) redrafted; sub-clause (5) omitted: <i>see</i> new clause 87.
51	53	New sub-clause (6).
57	59	Clause redrafted.
—	61	New clause.
—	62	New clause.
		[<i>Note.</i> —New clauses 61 and 62 have necessitated consequential alterations to old clauses 16, 27 (4), 28 (5), 29 (2), 35 (5), 44 (2), 51 (3).]
71	63	Clause transposed: paragraph (1) revised.
61	66	Addition to paragraph (b).
64	69	Clause revised.
70	75	Proviso added to sub-clause (1): sub-clause (2) revised.
73	77	Addition to paragraph (c).
79	83	Clause revised.
81	85	Additions to clause.
First	First	Type G street revised.
Schedule.	Schedule.	

Clause 2. Interpretation.

"The Map."—In large areas it will usually be convenient to prepare the Map in sections. The definition should then be amended to read—

"The Map" means the Map which has been prepared in duplicate and sections, each of such sections being sealed with the Official Seal of the Minister and with the Common Seal of the Council and marked "Map referred to in the Planning Scheme, Section .". One duplicate of the Map is deposited in the office of the Minister and the other in the offices of the said Council.

"Person having control."—This expression has the same meaning as "owner" in the Public Health Act, 1875. "Owner" in the Town and Country Planning Act, 1932, means a person, other than a mortgagee not in possession, who is for the time being entitled to dispose of the fee simple of the land, or of any term of years therein granted or agreed to be granted by a lease or agreement the unexpired term whereof exceeds three years, and the expression is used in the same sense in the Model Clauses. The expression "persons interested in the land" is used where still other interests have to be covered.

"The material date."—The date to be inserted is the date on which the resolution took effect or such later date as may be appropriate either generally or for the purposes of any particular provision. Where a Scheme covers more than one resolution area each area can have its own "material date", and in that case the separate areas will be defined on the Map. An alternative is to apply the latest date to the whole area of the Scheme, but as buildings erected before the "material date" rank as "existing buildings," this alternative would be inappropriate if buildings have been erected or commenced between the date when the resolution took effect and the latest date proposed to be applied without permission, and in contravention of the Scheme provisions, and it is desired to deal with them under Section 13 of the Act.

Expressions not defined have the same meaning as in the Act. For convenience definitions in the Act are reproduced in Appendix I to these clauses and might with advantage be similarly printed with the Scheme.

WELLCOME INSTITUTE LIBRARY	
Coll.	welMOMec
Call No.	

TOWN AND COUNTRY PLANNING ACT, 1932.

Model Clauses.

PART I.—GENERAL.

1. This Scheme may be cited as the Planning Scheme and is divided into the following Parts :—

Short title
and
arrange-
ment of
Scheme.

Part I	...	General.
Part II	...	Reservation of Lands.
Part III	...	Streets and Building Lines.
Part IV	...	Building Restrictions and Use of Land.
Part V	...	General Amenity and Convenience.
Part VI	...	Maintenance, use, alteration, extension, and replacement of Existing Buildings and continuance of Existing Use of Land.
Part VII	...	Plans, Approvals, Appeals.
Part VIII	...	Miscellaneous.

2.—(1) In this Scheme, except where the context otherwise requires or it is otherwise expressly provided, the following words and expressions have the respective meanings hereby assigned to them :—

Interpreta-
tion.

“ The Borough [District] ” means the

“ The Borough [District] Council ” means the

“ The County Council ” means the

“ The Council ” means in relation to any provision of this Scheme the authority responsible for enforcing and carrying into effect that provision;

“ The Minister ” means the Minister of Health;

“ The Act ” means the Town and Country Planning Act, 1932 (22 and 23 Geo. V, c. 48);

“ The Regulations ” means the Regulations made by the Minister under Section 37 of the Act and for the time being in force in the Borough [District];

“ The Map ” means the map which has been prepared in duplicate, each map being sealed with the official seal of the Minister and with the common seal of the Borough [District] Council, and marked “ Map referred to in the

Planning Scheme ”, of which one is deposited in the office of the Minister and the other in the offices of the said Council;

“ The Area ” means the area described in Clause 3 (Area of Scheme);

“ Interim development order ” includes an order relating to interim development made under any Act repealed by the Act;

“ The Public Health Acts ” means the Public Health Acts, 1875 to 1932, or any enactments amending those Acts;

“ The byelaws and local Acts ” means the byelaws, local Acts, orders and regulations for the time being in force in the Area;

“ Person having control ” in relation to any land or building means the person who receives the rack-rent of the land or building, whether on his own account or as agent or trustee for any other person, or who would so receive it, if the land or building were let at a rack-rent;

Clause 4. Responsible Authorities.

The Borough or District Council will be the authority responsible for enforcing all the provisions of the Scheme except as regards any existing road which is vested in the County Council, and any proposed road for which the County Council have undertaken to be responsible.

As regards these roads the form of provision will depend on whether or not the powers of the County Council under the ordinary law have been delegated to the Borough or District Council. Clause 4 is applicable where the powers of the County Council in regard to all the roads in question have been so delegated. Alternative Clause 4 (No. 1, Appendix II) should be substituted where the powers of the County Council have not been so delegated.

Both under Clause 4 and the Alternative Clause, the County Council are the responsible authority as regards roads which are vested in them and any proposed roads for which they have undertaken to be responsible. Under Clause 4, however, their functions will be wholly delegated to the Borough or District Council, subject to such conditions as may be agreed, or in default of agreement determined by the Minister. Under the Alternative Clause, on the other hand, the only functions of the County Council which will be delegated will be those under Clauses 18 (Construction of streets by owners) and 19 (Communicating streets). Sub-clause (3) of Clause 4 and Sub-clause (2) of the Alternative Clause contemplate that the agency arrangements will have been agreed before the Scheme comes into operation, but provide for their alteration from time to time.

If the highway functions of the County Council under the ordinary law in regard to the roads to which the Scheme applies are partly delegated and partly retained by the County Council, the appropriate clause will be a matter for agreement between the two Authorities.

In a rural district Sub-clause (1) should be omitted. Paragraphs (a) and (b) of Sub-clause (2) should be telescoped into one paragraph as "roads and building lines thereon" and Sub-clauses (5) and (6) should be omitted.

If in a borough or urban district no roads in respect of which provisions are included in the Scheme have been claimed under Section 32 of the Local Government Act, 1929, Sub-clause (5) should be omitted. If all county roads in respect of which provision is made in the Scheme have been claimed, the Clause should be limited to Sub-clause (1) (with the omission of the opening words) and Sub-clause (5), unless the County Council are undertaking responsibility for some new road under the Scheme, or some existing claimed road affected by the Scheme continues to vest in the County Council by virtue of Section 32 (3) of the Act of 1929, in which case Sub-clauses (2), (3), (4) and (6) will be needed as regards those roads.

If the County Council are to be responsible in respect of proposals in a scheme other than in regard to street improvements, e.g., specified open spaces, the Clause should be modified accordingly.

“ The material date ” means the day of
19 ;

The “ erection of a building ” includes the structural alteration of, or the making of any addition to, a building;

“ Street ” has the same meaning as in the Public Health Acts, and includes part of a street,

Any reference to land is limited to land in the Area.

(2) The Interpretation Act, 1889, applies to the interpretation of this Scheme as it applies to the interpretation of an Act of Parliament.

3. The Area to which this Scheme applies shall consist of that part of the Borough [District] which lies within the inner edge of the boundary line coloured dark blue on the Map [excluding the parts edged black and hatched in black lines on the Map].

Area of
Scheme.

4.—(1) Except as hereafter in this Clause provided, the Borough [District] Council shall be the authority responsible for enforcing and carrying into effect the provisions of the Scheme.

Responsible
Authorities.

(2) The County Council shall be the authority responsible for enforcing and carrying into effect the provisions of the Scheme in relation to—

(a) roads chargeable to the county and building lines thereon;

(b) the site and levels of the approaches of a new street not chargeable to the county to a road chargeable thereto;

(c) the imposition under Clause 27 (Prevention of obstruction to view at corners and bends) of restrictions in regard to the height and position of proposed fences or other obstructions to view at the junction of a road or proposed road with a road chargeable to the county.

(3) The whole of the powers and duties of the County Council as responsible authority under the last preceding Sub-clause shall be deemed to have been delegated by the County Council to the Borough [District] Council subject to such conditions as have been agreed between the two Councils or to such other conditions as may from time to time be agreed between them or in default of agreement as the Minister may on the application of either Council determine.

(4) The Borough [District] Council in discharging the powers and duties delegated to them under this Clause shall act as agents for the County Council, and a person entering into any transaction with the Borough [District] Council in relation to any of those powers or duties shall not be bound to enquire whether the Borough [District] Council have authority to enter into the transaction on behalf of the County Council.

(5) The provisions of Section 33 of the Local Government Act, 1929, relating to the repayment by County Councils to District Councils of the expenses of the improvement of roads the maintenance and improvement of which have been claimed by District Councils under that Act shall extend to expenses incurred by the Borough [District] Council under this Scheme or the Act in respect of the widening of, and the fixing of building lines on, any

Clause 5. Reservation of lands.

Reservations for purposes other than those indicated in column 2 of the Table (allotments, cemeteries, etc.) should be arranged in successive Parts.

Private open spaces.—The object of the reservation of land as a private open space is to prohibit its use for building purposes generally, but, subject to that, to allow any use which will not injure the amenity of the locality. The uses specified in sub-paragraphs (a) and (b) of paragraph (1) of Clause 9 are selected as being unlikely to injure amenity. In particular cases it may be desirable to allow private open spaces to be used for other purposes, for example, market gardens or allotments, or a sports ground ordinarily open or intended to be ordinarily open to the public on payment of a charge, and provision is made for expanding the clause, as indicated by the square brackets, to include any such case. It may, however, sometimes be more convenient to provide for cases of this kind by means of an agreement scheduled to the Scheme allowing the particular use.

Clause 9 is open to modification in other respects to meet the facts in a particular Scheme. For example, paragraph (b) would ordinarily be inappropriate in the case of a Scheme relating wholly to built areas.

Proposals to reserve land as private open space should be fully discussed with owners, so that they may be aware of the implications of the reservation. Ordinarily it will not be desirable to reserve land for a private open space except in agreement with the owner, and in some cases it may be desirable to make an agreement under Section 34 of the Act in anticipation of the Scheme.

Cemeteries.—Where land is reserved for cemeteries, Supplementary Clause 7A (No. 2, Appendix II) should be included in the Scheme. Under the Cemeteries Clauses Act, 1847, as amended by the Burial Act, 1906, a cemetery may not be constructed within a hundred yards of dwelling houses without the consent of the owners, lessees and occupiers; and if there is any reason to fear that the necessary consents may be withheld so that a part of the proposed cemetery will be sterilised, the authority should consider reserving rather more land than is actually needed. In appropriate circumstances the surplus land can subsequently be sold for development subject to the condition that consent to the cemetery will be forthcoming, and where this is intended the surplus land should be specially hatched on the Map and a Sub-clause added to Clause 6 as follows:—

(7) If the Minister signifies his consent to the sale by the Council, under Clause 69 (Disposal of lands), of the part of the land reserved for a cemetery which is hatched on the Map, the provisions of this Clause shall cease to apply to the land so hatched, and the land shall thereafter be deemed to be coloured on the Map.

The blank in the last line should be filled in by reference to the colour of the adjoining use and density zone.

Clause 6. Buildings, etc., not to be erected on reserved lands.

Sub-clause (1) does not preclude the continuance of the existing use of any reserved land until the appointed day, but the consent of the Council is required to the erection of buildings or the execution of works of a permanent character or to the making of excavations.

road the maintenance and improvement of which have been so claimed.

(6) The expression "road chargeable to the county" means—

(a) any road for the time being vested in the County Council under the Local Government Act, 1929, or any enactment amending that Act; and

(b) any street or proposed street on land reserved for streets and numbered on the Map.

PART II.—RESERVATION OF LANDS.

5.—The several pieces of land specified in column 1 of the following Table are reserved for use for the respective purposes indicated in column 2 of the Table.

Reservation
of lands.

TABLE A.

Indication on Map of lands reserved. 1.	Uses for which lands are reserved. 2.
<p>Part I.</p> <p>Coloured and numbered</p>	<p>New streets and widenings of existing highways which upon the execution by the Council of any necessary street works become repairable by the inhabitants at large.</p>
<p>Part II.</p> <p>Coloured and numbered</p>	<p>New streets and widenings of existing highways which upon declaration become private streets.</p>
<p>Part III.</p> <p>Coloured and numbered</p>	<p>Public open spaces.</p>
<p>Part IV.</p> <p>Coloured and numbered</p>	<p>Private open spaces.</p>

6.—(1) Before the appointed day no person shall, except with the consent of the Council, erect a building or execute works of a permanent character on land reserved under this Part of the Scheme, and no person shall, except with the like consent, make any permanent excavation on or near

Buildings,
etc., not to
be erected
on reserved
lands.

Sub-clause (3).—It would be a breach of this Clause to carry on mining operations which had the result of leaving insufficient support for land reserved for streets and for streets constructed on reserved lands. As this Part of the Scheme carries a right to claim compensation within twelve months of the coming into operation of the Scheme, the unqualified insistence on a right of support may be thought in some areas—particularly in mining areas—to be too expensive. The inclusion of the amendments set out in No. 3, Appendix II, should then be considered; they provide that the underground working of minerals may be carried on freely, under or near land reserved for streets, and under streets constructed on such land, except where, subject to compensation, the Council serve a notice prohibiting the working.

Sub-clause (5).—“The appointed day” in relation to private open spaces should be deferred in cases, such as quarrying, in which it is expedient to permit for a time after the Scheme comes into operation, the continuance of a use which is not in conformity with Clause 9. The private open space reservations which can conveniently become effective on the coming into operation of the Scheme should be specified in paragraph (a) of the Sub-clause.

Clause 7. Acquisition of Land.

This Clause should not be extended to authorise the purchase, under Section 25 of the Act, of land reserved, e.g., for allotments or aerodromes, where full powers of purchase exist in the general law but are there subject to a rather different procedure from that contemplated by Section 25.

such land, if it would be necessary to remove or alter the building or works or to reinstate the land in order to enable the land to be used for the purpose for which it is reserved.

(2) After the appointed day no person shall—

(i) erect a building or execute works or make any permanent excavation upon land reserved under this Part of the Scheme, other than buildings or works required for or incidental to the purpose for which the land is reserved;

(ii) use any land specified in Part IV of the Table in the preceding Clause otherwise than as a private open space, or use any building on such land for any purpose other than that for which it was used before the appointed day except a purpose which is incidental to or required in connection with the private open space.

(3) Save as provided by Sub-clause (1) of this Clause, no person shall, whether before or after the appointed day, spoil or waste land reserved under this Part of the Scheme so as to destroy or impair its use for the purpose for which it is reserved :

Provided that the Council may consent to the deposit on such land of waste materials or refuse before the appointed day.

(4) In giving consent under this Clause the Council may impose conditions with respect to the removal or alteration of the building or works or the reinstatement of the land, or the removal of the waste materials or refuse, or otherwise as they think fit.

(5) For the purposes of this Clause the “ appointed day ” means—

(a) in the case of land reserved for use as a private open space and numbered _____, the date on which this Scheme comes into operation;

(b) in the case of any other land reserved for use as a private open space, such later date as the Council may in any particular case determine, not being less than six months after the date on which they have notified the person having control of the land of their determination;

(c) in the case of land reserved for use as a street, the date on which the land is declared by the Council under this Scheme to be a street; and

(d) in the case of land reserved for any other use, the date on which the land is laid out or appropriated by the Council for the use in question.

(6) Nothing in this Clause shall be construed as prohibiting the reasonable fencing of the land.

7.—(1) Land reserved in the foregoing Table for new streets and widenings of existing highways or for public open spaces or playing fields may be purchased by the Council, whether by agreement or compulsorily, under and in accordance with the provisions of Section 25 of the Act. Acquisition
of land.

(2) The reservation of land as a private open space shall not prevent the Council from purchasing the land, or any part thereof, by agreement (but not otherwise) for the purpose of a public open space or playing field.

Clause 9. Uses of private open spaces.

See note on Clause 5.

8. As soon as any land reserved as a public or private open space or as a playing field has been acquired by the Council, the Council shall have the like powers and duties as if the land had been acquired for the purposes of public walks, parks and pleasure grounds or playing fields under the Public Health Acts.

Power to
maintain
open
spaces.

9. For the purposes of this Part of the Scheme land shall be deemed to be used as a private open space if, and only if, it is used—

Uses of
private
open spaces.

[(1) in the case of any of the lands numbered]

(a) as a private ground for sports, play, rest or recreation, or as an ornamental garden or pleasure ground other than a sports or recreation ground ordinarily open or intended to be ordinarily open to the public on payment of a charge; or

(b) as arable, meadow or pasture land, osier land, orchards or nursery grounds, other than land used wholly or principally for the purpose of cultivation under glass, or as a plantation or wood or for the growth of saleable underwood; [and

(2) in the case of any of the lands numbered as ; and

(3) in the case of any of the lands numbered as].

10.—(1) If at any time after the coming into operation of this Scheme a standard width is, with the approval of the Minister of Transport, adopted for a road under the Restriction of Ribbon Development Act, 1935, or any enactment amending that Act, and such standard width is intended to take the place of a new street or widening (including any section of a new street or widening) for which land is reserved under Clause 5 (Reservation of lands), the Council may by resolution determine that the provisions of this Part of the Scheme relating to the reservation of lands shall no longer apply to the new street or widening, or the section thereof, and thereupon the said provisions shall cease to apply.

Release
of land from
reservations
for new
streets or
widening
where a
standard
width is
adopted
under the
Restriction
of Ribbon
Develop-
ment Act,
1935.

(2) Where the standard width so adopted includes part but not the whole of the width of the new street or widening or of the section of the new street or widening which it is intended to replace, or where the standard width is adopted for the purpose of a route alternative to the new street or widening, so much of the land released from its reservation as is not included in the standard width (in this Clause and in Clause 25 (Modification of building lines where a standard width is adopted under the Restriction of Ribbon Development Act, 1935) referred to as the “released land”) shall be deemed to be included in the use zone or density zone (if any) which adjoins it, and the provisions of this Scheme shall apply to the released land accordingly.

(3) As soon as may be after making a decision under Sub-clause (1) of this Clause the Council shall cause to be prepared in duplicate a plan showing the land to which the decision applies and the use zone and density zone in which it or any part of it is deemed to be included, and within one month of making the decision they shall inform the person having control of any such land that the reservation has been removed and in what use zone and density zone (if any) the land or any part of it is included, and they shall further inform him where the plan prepared in accordance with the provisions of this Sub-clause may be inspected.

PART III.**Streets.****Clause 11. Interpretation.**

"The cost of a standard street."—The definition is appropriate only in areas where byelaws with respect to new streets or corresponding provisions in local Acts are in force. It is expected, however, that byelaws with respect to new streets or corresponding provisions in local Acts will ordinarily be in force in areas in which schemes are made; and the Minister has intimated that the fact that a scheme is being prepared will be considered *prima facie* evidence that byelaws should be made.

Clauses 11, 15 and 17 are drafted so as to be easily adjustable to either the Private Street Works Act, 1892, or Section 150 of the Public Health Act, 1875—the alternative being shown in square brackets. Where the Act of 1892 is in force the first square bracket applies, where Section 150 the second.

(4) The duplicate plans prepared under the provisions of the last preceding Sub-clause shall be sealed with the seal of the Council and thereafter one plan shall be attached to the Map and the other shall be forwarded to the Minister.

PART III.—STREETS AND BUILDING LINES.

11. In this Part of the Scheme, except where the context otherwise requires or it is otherwise expressly provided, the following words and expressions have the respective meanings hereby assigned to them :—

Interpreta-
tion.

[" The Act of 1892 " means the Private Street Works Act, 1892] [" The Act of 1875 " means the Public Health Act, 1875] as amended by any subsequent Acts, whether public, local or private, which are in operation in the Area;

" A byelaw street " means a street constructed so as to comply with any enactments, regulations or byelaws in operation in the Area;

" Private street " means a street as defined by the Public Health Acts not being a highway repairable by the inhabitants at large;

" Incidental works " means any slopes, approaches, embankments, cuttings, retaining walls, bridges, arches, girders, culverts, drains or other works necessary and incidental to the construction of a street, and includes any works required for fencing the street;

" The cost of a standard street " means—

(i) in relation to a proposed new street or an existing private street widened in accordance with the provisions of the Scheme, the amount which would at the date of the commencement of the works have been the cost of the execution of street works (as defined in Section 27 of the Act), in the course of the construction of the street, if it had been carried out so as to comply with any enactments, byelaws or regulations in operation in the Area; and as respects matters for which no provision is made in any such enactments, byelaws or regulations, so as to comply with such specification as a highway authority for the area would at the date of the commencement of the works have required as a condition of declaring a street to be a highway repairable by the inhabitants at large; and

(ii) in relation to an existing highway repairable by the inhabitants at large which is widened in accordance with the provisions of this Scheme, such proportion of the amount which would at the commencement of the works have been the cost of executing street works (as defined in Section 27 of the Act) on a street the construction of which had been carried out in the manner referred to in the last preceding paragraph, as the width of the added strip bears to the width of a byelaw street. For this purpose the term " added strip " means the extent, if any, by which the existing highway is less in width than a byelaw street.

Clause 12. Sites of new streets and widenings.

Clauses 12, 13, 14 and 15 provide for the construction by the Responsible Authority, at any time after declaration, of new streets and widenings for which land is reserved by Clause 5, and for the recovery, in proper cases, and subject to the limit of the cost of a standard street, of the cost of construction from owners.

Streets should be included in Part I of the Table if the circumstances are such that it is impossible or unlikely that a charge would become recoverable from frontagers in respect of the works provided for by the Scheme, e.g., the widening of a street which is already of byelaw width, or the construction of a new street on a high embankment, or of a street to which access is to be refused.

“ Street works ” includes, in addition to the works mentioned in Section 27 of the Act, incidental works and works required for planting a street with grass, trees or shrubs, and erecting guards therefor, or treating it in other suitable manner;

“ The making ” of a street means the execution of all necessary street works from the commencement to the final completion of the street.

Streets.

12.—(1) The Council may declare any land reserved for new streets and widenings of existing highways in Part I or Part II of the Table in Clause 5 (Reservation of lands) to be a street either—

Sites of new streets and widenings.

(a) with the consent of the persons interested in the land, including persons having a mortgage or charge on the land; or

(b) after acquiring the land.

(2) If the land so declared is reserved in Part I of the Table, it shall, upon the Council executing any necessary street works, become a highway repairable by the inhabitants at large.

(3) If the land so declared is reserved in Part II of the Table, it shall, upon the declaration being made, be deemed to have been dedicated to the public and shall become a private street.

13.—(1) The Council shall have power under this Scheme to execute street works upon the land reserved in Part I or Part II of the Table in Clause 5 (Reservation of lands) and subject to the provisions of Clause 14 (Land adjoining sites of streets) and Clause 15 (Application of Private Street Works Act 1892 [Section 150, etc., of the Public Health Act, 1875]), they shall in the exercise of that power have the same rights and be subject to the same liabilities as they would have had or been subject to if the works had been executed under the Public Health Acts.

Execution of street works on reserved land.

(2) Not less than twenty-eight days before commencing to execute street works upon any of the land reserved in Part I or Part II of the Table, whether under this Clause or under the Public Health Acts, the Council shall serve on any statutory undertakers whose apparatus is situate in or under any part of such land or is otherwise in such a position that it will or may be affected by the execution of such works, notice in writing of their intention so to commence, with particulars of the proposed works and of the manner in which they are to be executed, together, where necessary, with plans and sections thereof.

(3) Where the removal or alteration of apparatus belonging to statutory undertakers, or the execution of works for the provision of substituted apparatus whether permanent or temporary, is in their opinion reasonably necessary or expedient for the purposes of their undertaking by reason of any proposal to execute street works of which notice is given under the preceding Sub-clause, the undertakers may within fourteen days of receiving the notice serve a counter-notice in writing on the Council, declaring their intention of removing or altering the apparatus, or executing works for the provision of substituted apparatus; and, unless it is agreed between the Council and the undertakers that the Council shall carry out the operations of removal, alteration or substitution,

Clause 15. Application of Private Street Works Act, 1892 [Section 150, etc., of the Public Health Act, 1875].

The words in italics are required in a borough or urban district where some of the roads to be widened or constructed under the Scheme as private streets vest in the County Council.

Paragraph (1), in conjunction with the definition of the cost of a standard street in Clause 11, is intended to give effect to the provisions of Section 27 of the Town and Country Planning Act, 1932.

The other paragraphs are necessary because the Clause applies to streets laid out and made on the initiative of the Responsible Authority, which may be constructed in advance of development and to a higher standard than would be required simply for estate development, and extends to a widening by the Responsible Authority of an existing highway to which the Act of 1892 does not apply. The general effect is—

(1) where land reserved for the widening of an existing highway, which is less in width than a byelaw street, becomes on declaration a private street, the highway as widened is deemed to be a private street for its whole width, with the result that—

(a) an apportionment in respect of the widening may be made upon the frontagers on both sides of the road and not merely on the side on which the widening is carried out;

(b) the works as a whole, including any reconstruction of the existing highway which may be necessary, may be carried out under the same powers;

(2) the expenses incurred in the execution of street works (whether the construction of a new street or the widening of an existing highway) may be apportioned upon any land or buildings upon which an apportionment could be made under the general law. The right of the Responsible Authority to recover the amount apportioned is, however, postponed—

(a) if the land or buildings upon which the apportionment is made are agricultural land or buildings within the meaning of Section 67 of the Local Government Act, 1929, until they cease to be agricultural land or buildings;

the Council shall give the undertakers reasonable facilities for carrying out the operations at whatever time during the execution of the street works is most convenient for such operations.

(4) In this Clause—

“ apparatus ” means mains, pipes, wires, tubes, valves, cables, syphons, transformers, standards, poles or other works or apparatus laid down, constructed or used for, or in connection with the carrying, conveying or supplying of water, water for hydraulic power, gas or electricity; and

references to the alteration of apparatus include references to diversion and to alterations of position or level.

14.—(1) The Council may, after giving not less than three months' notice to the owners and occupiers of any land which adjoins land reserved for a new street or widening of an existing highway and is required for the purpose of executing incidental works, enter upon that land for the purpose of executing the works.

Land adjoining sites of streets.

(2) The Council may at any time after giving reasonable notice to the owners and occupiers of the land upon which incidental works have been executed enter upon that land for the purpose of maintaining the works.

(3) Where land which is reserved in Part II of the Table in Clause 5 (Reservation of lands) becomes a private street, the Council may declare any adjoining land belonging to them and required for the execution of incidental works to be, and the land shall thereupon become, a part of the private street.

15. If the Council decide to execute street works under the power conferred on them by Sub-clause (1) of Clause 13 (Execution of street works on reserved land) upon any land reserved in Part II of the Table in Clause 5 (Reservation of lands) and the land has become a private street by virtue of Clause 12 (Sites of new streets and widenings) [the provisions of the Act of 1892] [Sections 150, 151 and 257 of the Act of 1875] shall *in relation to streets or proposed streets for which land is reserved in that Part of the Table and numbered* *on the Map apply as though the County Council were an urban authority [who had adopted the Act] [under these Sections] and shall in any case apply subject to the following modifications, as though they were incorporated in this Clause [and the Council had decided to execute the works under Section 150] :—*

Application of Private Street Works Act 1892. [Section 150, etc., of the Public Health Act, 1875]

(1) The Council shall not be entitled to apportion—

(i) any sum in respect of the execution of street works for the purpose of widening an existing highway of which the width is equal to or greater than the width of a byelaw street; or

(ii) a sum in excess of the cost of a standard street made on the site of the street;

[(2) The grounds of objection set out in Section 7 and Section 12 of the Act of 1892 shall be deemed to include the ground that expenses which under this Clause are to be borne by the Council have been provisionally or finally, as the case may be, apportioned against the premises of the objector;]

(b) in the case of a new street, unless and until access to the new street is provided for and used by persons or vehicles from the land subject to the apportionment (whether the site of a building or not);

(c) in the case of a widening of a highway repairable, unless a building (other than an agricultural building, or a building of some other class specified in sub-paragraph (iii) of paragraph (5)) has been erected on the land after the date of the last personal notice of the adoption of the draft Scheme or the date of the second advertisement given, in accordance with Article 13 of the Town and Country Planning Regulations, 1933, whichever is the later. This date should be inserted in the sub-paragraph.

Clause 16. Number and sites of new streets to enter classified roads.

It is to the advantage of the Council to fix the sites of new street entries as far as possible by the Scheme, and for this purpose to use the form of Clause set out in the main model; but an alternative Clause is given (No. 4 Appendix II) leaving determination of the points of entry to a later date, for use where the Council do not find it practicable to avail themselves of the main Clause.

[(2) Any dispute arising under paragraph (1) of this Clause shall be determined in the manner provided by the Act of 1875 for the determination of disputes as to recovery of expenses of private street works under that Act;]

(3) If the land so reserved and becoming a private street in manner aforesaid abuts on and is intended to form the site of a widening of an existing highway, and the existing highway is less in width than a byelaw street, the part of the existing highway upon which the land abuts shall as to its whole width be deemed to be part of the private street;

(4) As soon as the Council have made the street, it shall become a highway repairable by the inhabitants at large;

(5) (i) No expenses [incurred in the execution of street works and] apportioned [under the Act of 1875] against land or buildings which at the time of apportionment are agricultural land or buildings within the meaning of Section 67 of the Local Government Act, 1929, shall be recoverable until the land or buildings cease to be agricultural land or buildings as aforesaid;

(ii) No expenses [incurred in the execution of street works for the purpose] [apportioned under the Act of 1875 in respect] of making a new street shall be recoverable in respect of land (whether the site of a building or not) unless and until access is provided for and used by persons or vehicles from that land to the new street;

(iii) No expenses [incurred in the execution of street works for the purpose] [apportioned under the Act of 1875 in respect] of widening an existing highway repairable by the inhabitants at large and apportioned against any land abutting on that highway shall be recoverable unless after the day of 19 a building has been erected on the land other than an agricultural building within the meaning of the said Section 67 or a building—

(a) begun before the said date; or

(b) erected in pursuance of a contract made before the said date; or

(c) erected within the site of a building existing at that date and ordinarily incidental to the purpose for which that building is used; or

(d) the erection of which is permitted under Clause 57 (Replacement of existing and certain other buildings);

and the amount recoverable shall in any case be limited to so much of the apportioned sum as is properly attributable to the land forming the site of the building.

Interest shall not be payable to the Council on any money in respect of a period during which under this Clause the money is irrecoverable.

16.—(1) No new street shall be laid out or made so as to enter any of the roads or proposed roads specified in Part I of the Table below.

(2) Save as hereinafter in this Clause provided no new street shall be laid out or made so as to enter any of the

Number
and sites
of new
streets to
enter
classified
roads.

roads or proposed roads specified in Part II or in the first column of Part III of the Table, except on land reserved for streets.

(3) In the case of a road or proposed road specified in the first column of Part III of the Table the Council shall, in addition to any new streets on land reserved for streets, permit in each of the sections of the road or proposed road specified in the second column of the said Part the entry of one new street at such point as they may approve.

(4) The Council may permit the entry into a road or proposed road specified in Part II or in the first column of Part III of the Table of a new street which is required to provide temporary access from neighbouring land to the said road or proposed road pending the construction on land reserved for streets, or in a position approved by the Council in accordance with the provisions of the preceding Sub-clause, of a street which will provide permanent access from the said land to the said road or proposed road.

Any street constructed to provide such temporary access is hereby declared to be diverted or stopped up and all public rights therein are declared to cease as from the date on which the street providing permanent access as aforesaid is constructed to the satisfaction of the Council and opened for public traffic.

(5) For the purposes of this Clause a new street does not include a new street not intended for use as a carriage-way.

TABLE B.

Part I.

Existing or intended classified roads on which no new street entrances are to be allowed.

Part II.

Existing or intended classified roads on which new street entrances are to be allowed only on land reserved for streets.

Clause 17. Expenses of constructing sewers.

Where the Scheme relates wholly to a rural district in which powers in regard to private streets have not been delegated, the words "the Borough [District] Council or" in lines 4 to 5, and the consequential words "as the case may be" should be omitted.

In the case of a Scheme relating wholly to a county borough the reference throughout the Clause should be to "the Council" and the last paragraph of the Clause omitted.

Clause 18. Construction of streets by owners.

The Responsible Authority may require the street to be of such width and standard of construction as they consider necessary provided that they pay for any additional cost above that of a standard street and do not, unless the Minister expressly approves additional types of street for the purpose, relax the byelaws or local Acts below the standards permitted under the First Schedule to the Scheme.

As regards the plans to be submitted by applicants, and the time within which the Council must deal with them, see Clauses 61 and 62 in Part VII of the Scheme.

Part III.

Existing or intended classified roads on which new street entrances are to be allowed on land reserved for streets and also at points to be approved.

Description of road or intended road. 1.	Section of road one new street entrance on which is to be approved. 2.

17. Where after the date on which this Scheme comes into operation the Borough [District] Council construct a sewer under land reserved for a street and the construction takes place before the land becomes a private street the Borough [District] Council or the County Council as the case may be, may, if they [propose] [decide] to execute street works upon the land, include [particulars] [the cost] of the sewer in the [specification] [cost] of any street works [to be] executed by them on the street and [the cost of the sewer in the estimate of the probable expenses of such works, and thereupon the Act of 1892, as modified by this Scheme, shall, so far as applicable, apply to those expenses as if they formed part of the estimated expenses of the proposed street works] [Sections 150 and 257 of the Act of 1875 as modified by the Scheme shall, so far as applicable, apply as if the expenses of constructing the sewer were part of the expenses of the street works].

Expenses of constructing sewers.

The County Council shall pay over to the Borough [District] Council any monies received by them from frontagers in respect of, or properly attributable to, the construction of the sewer, but shall be entitled to deduct any expenses reasonably incurred by them in the recovery of the said monies.

18. Except in relation to streets proposed to be constructed by a highway authority the following provisions shall have effect with respect to new streets proposed to be constructed whether on land reserved for streets or not:—

Construction of streets by owners.

(1) The laying out or making of any new street shall be subject to the approval of the Council, and a person intending to lay out or make a new street (in this and the next succeeding Clause referred to as “the applicant”) shall before commencing any work apply to the Council for their approval to the laying out or making of the new street, submitting for the purpose plans, sections and specifications in accordance with the provisions of Clause 61 (Submission of Plans).

(2) On receiving an application the Council shall notify the person having control of any neighbouring land, the development of which is in their opinion likely to be substantially affected by the determination of the site of the proposed street—

(a) that plans and sections have been submitted to them; and

(b) that before approving the plans and sections they will have regard to any proposals for the development of such land which he may produce to them within one month from the date of the notice.

(3) The Council shall afford the applicant and any person notified under the last preceding Sub-clause reasonable facilities for inspecting any plans, sections or proposals submitted under this Clause.

(4) The Council shall approve the plans, sections and specifications of the proposed street, or if they consider that

(a) the width, sections or specifications are unsatisfactory; or

(b) the siting of the proposed street will be inconvenient from the point of view of traffic, or likely to prejudice the development of neighbouring land, or injurious to amenity,

they shall disapprove the plans, sections or specifications as the case may be, or approve them subject to appropriate modifications or conditions. If any proposals have been submitted to the Council under Sub-clause (1) of this Clause, they shall notify the person who submitted the proposals of their decision under this Sub-clause at the same time as they notify the applicant:

Provided that the Council shall not approve a plan, section or specification which is contrary to any byelaw or local Act, except that they may, in certain cases, permit—

(a) the laying out or making of a new street not likely to be used generally for through traffic, if it is of one of the types described in the First Schedule to this Scheme or of a substantially similar type, or a street of such other type as the Minister may from time to time approve;

(b) the temporary laying out or making of a new street of less width, or with narrower carriageways and footways, than authorised by them in approving the street.

(5) On the application of a person having control of any land over which the site of a new street has been approved, not being a street to which Sub-clause (6) of the next succeeding Clause applies, the Council may, as regards any land under the applicant's control, vary the approved plan or approve a new plan, and the application shall be in all respects as though it were an application under Sub-clause (1) of this Clause.

(6) The Council may, if they think fit, contribute towards the cost of laying out or making a street approved under this Clause, and where they require a street to be laid out or made at a higher cost than the cost of a standard street on the site of the proposed street, they shall themselves, except in so far as the applicant may otherwise agree, pay to the person laying out or making the street such sum as may represent the excess cost.

(7) An applicant who is aggrieved by—

(a) a decision of the Council under Sub-clause (4) of this Clause in regard to—

(i) the width or siting of the proposed street;
or

(ii) the sections or specifications of the proposed street; or

Clause 19. Communicating streets.

The site for a communicating street (which by definition includes the continuation of a street) and the site of the proposed street with which it will communicate become reserved land, in order to enable the Responsible Authority, in suitable circumstances, to declare and construct any part of the street themselves (whether as a highway repairable by the inhabitants at large or as a private street).

Where the Responsible Authority desire to fix the sites for additional estate streets without any proposals for streets being submitted to them, they are entitled in suitable circumstances to take this course by making a Supplementary Order.

(b) a refusal of the Council to pay any sum which under the preceding Sub-clause they are required to pay,

may appeal.

(8) A person laying out or making a street shall lay it out or make it in accordance with the plans, sections and specifications approved under this Clause, and all conditions applicable thereto contained in the First Schedule to this Scheme or in the approval shall be binding on him, and, in so far as they relate to the use of any adjoining land, on all persons deriving title under him to that land.

19.—(1) Where it appears to the Council that, in order to secure the due co-ordination of estate development in the neighbourhood of any proposed new street, provision ought to be made for a street (hereinafter in this Part of the Scheme referred to as “ the communicating street ”) upon neighbouring land, in continuation of, or communicating with, that new street, the Council may, when approving the plans and sections of the street, fix a site for the communicating street.

Communi-
cating
streets.

(2) The communicating street may be a new street or a widening of an existing street, and the Council may fix the site thereof either by approving, with or without modification, a proposed street or widening included in any proposals submitted to them under the last preceding Clause, or by themselves preparing a plan for the purpose.

(3) As soon as the plans and sections of the new street and the site of the communicating street have been approved, the Council shall notify the person having control of the said site of their decision and shall afford him reasonable facilities for inspecting the plans and sections and a plan of the said site, and, if he is aggrieved by the decision of the Council whether in respect of the new street or of the site of the communicating street, he may appeal.

(4) On an appeal under the last preceding Sub-clause the applicant, and on an appeal by the applicant under Sub-clause (7) (a) of Clause 18 (Construction of streets by owners) the person having control of the site of the communicating street, shall be entitled to appear and be heard.

(5) The decision of the Council to approve the plans and sections and to fix the site of the communicating street shall not take effect pending the determination of any appeal made under this or the last preceding Clause by the applicant or by the person having control of the site of the communicating street, and, if on any such appeal the decision of the Council with regard to the plans and sections of the street or the site of the communicating street is varied, the Council may modify their decision with regard to the site of the communicating street or to the plans and sections as the case may require, so as to bring it into conformity with the decision given on appeal, and no appeal shall lie against any modification made by the Council for this purpose.

(6) Where the Council decide under this Clause to fix the site of a communicating street, the land which forms the site of the new street in respect of which application was made to them, and the land which forms the site of the communicating street, shall thereupon become reserved for a new street or widening of an existing highway as though

Clause 21. Diversion or stopping up of highways.

The provision of a convenient alternative by the Scheme is not in itself sufficient reason for the diversion or stopping up of a highway. A pleasant footpath should not be stopped up unless there is a strong reason for this course. Again, if services are laid in an existing highway, the trouble and expense that may be involved if the highway is stopped up or diverted must be taken into account.

Portions of existing highways may be diverted or stopped up *pari passu* with the construction, to the satisfaction of the Council, of portions of the alternative new street or streets.

The consent of the parish council and of the rural district council (if they are not preparing the Scheme) should be obtained in accordance with the provisions of Section 13 of the Local Government Act, 1894, where it is proposed to provide for the stopping up of a highway in a rural parish.

they had been reserved for the purpose in Part I or Part II of the Table in Clause 5 (Reservation of lands).

(7) The Council shall forthwith determine whether the sites of the new street and of the communicating street shall, when declared to be a street, become a highway repairable by the inhabitants at large or a private street, and shall notify the applicant and the person having control of the site of their determination, and the applicant and such person, if aggrieved by the decision of the Council so far as it relates to the land belonging to them respectively, may appeal.

20.—(1) A person who proposes to lay out or to make a street, shall, before commencing to lay out the street or to execute any street works, give not less than twenty-four hours' notice to the Council of the date on which he proposes to commence the work.

Notice of commencement and completion of streets.

If such notice is not given and a duly authorised officer of the Council, on inspecting any work in connection with the street, finds that the work is so far advanced that he cannot ascertain whether anything has been done or omitted contrary to the plans and specifications approved by the Council or to the conditions upon which approval of the street has been granted, the officer may, within a reasonable time after inspection, give notice to such person requiring him, within a reasonable time to be specified in the notice, to remove, lay open or pull down so much of the work as prevents the officer from ascertaining whether anything has been done or omitted as aforesaid.

If the said person fails or refuses to comply with the requisition, the Council may themselves remove, lay open or pull down so much of the work as aforesaid and may recover from him summarily as a civil debt the expenses incurred by them.

(2) A person who has laid out a street or executed any street works thereon, other than temporary works, shall within a reasonable time after the completion thereof give notice to the Council that the street is laid out or the works executed, as the case may be.

(3) Compliance with the provisions of any byelaws or local Acts which require notice to be given of the commencement or completion of the laying out of a street or of the execution of street works, shall be a sufficient compliance with the corresponding provisions of this Clause.

21.—(1) Each of the public highways *hatched red* on the Map and specified in the first column of the Second Schedule to this Scheme is hereby declared to be diverted or stopped up, and all public rights therein are declared to cease, as from the date on which the proposed new street to be made on the land, the number of which is set opposite to that highway in the second column of the said Schedule, is made to the satisfaction of the Council and opened for public traffic :

Diversion or stopping up of highways.

Provided that—

(i) where any such proposed new street is made in portions, such portions of the public highway as correspond to the completed portions of the new street may be diverted or stopped up, if the Council are satisfied that an equally convenient right of way, whether permanent or temporary, has been provided for the public use; and

(ii) where more than one proposed new street is set opposite to a public highway in the second column of the said Schedule, a portion only of the said highway

may be diverted or stopped up, if the Council are satisfied that by the making of the whole or any part or parts of any one of the said proposed new streets an equally convenient right of way has been provided for the use of the public.

(2) The Council may, after the date on which a highway, or any portion thereof, is diverted or stopped up, remove therefrom, without payment, any road material of which the highway is constructed or which is lying thereon :

Provided that if the owner of land from which road material may be removed in pursuance of this Sub-clause gives notice in writing to the Council requiring them, if they intend to exercise their powers thereunder, to do so within a period, not being less than one month, specified in the notice, the Council shall not be entitled, after the expiration of that period, to remove material from that land.

(3) Where for the purpose of improving a highway the Council intend to straighten or otherwise alter any length thereof, they may with the consent of the persons interested in the land forming part of or adjoining that length of highway add to the highway a piece of the adjoining land and stop up the highway as to a portion of its width.

An agreement made in respect of the proposed stopping up may provide for payments by or to the Council.

(4) The diversion or stopping up of a highway under this Clause shall not affect the rights of the Council or of any statutory undertakers or other persons in any sewers, gas or water mains, electric cables or wires, or other works lying on or under the highway, and the Council and such statutory undertakers and other persons shall have the same powers in relation thereto (including the power of inspecting, maintaining and repairing the works and connections thereto, and of entry upon the land for that purpose), as if the highway had not been diverted or stopped up :

Provided that the Council may, if they think fit, divert or transfer any such works with the consent of the statutory undertakers or other persons in whom the works are vested, and execute any works necessary and incidental to such diversion or transfer, and may enter into agreements for the purpose.

Building Lines, etc.

22.—(1) When the plans and sections of a proposed street are submitted to the Council for their approval under Clause 18 (Construction of streets by owners) and the proposed street is neither on land reserved for streets under Part II of the Scheme nor a street intended for use as a secondary means of access or as a footway only, the Council may fix a building line for the street, and, if in approving the plans of the street the Council fix the site of a communicating street, they may also fix a building line for the communicating street.

Fixing of
building
line for new
street not
shown on
Map.

(2) If a building line is so fixed, the notice that the plans of the street have been approved or that the site for the communicating street has been fixed, as the case may be, shall, unless it is accompanied by a plan showing the position of the building line, include a statement that a plan indicating the position of the building line will be open for inspection at a specified place. The fixing and position of the building line shall be matters on which an appeal may be made under Clause 18 (Construction of streets by owners) or Clause 19 (Communicating streets), as the case may be.

Clause 24. Effect of building line.

Paragraphs (b) (ii) and (iii) of the proviso to the Clause are appropriate to undeveloped areas, since in that case the depth of building lines will normally be substantially greater than 15 or 10 feet. Shorter distances than those named in the paragraphs would be appropriate in developed areas.

23.—(1) In the case of a street existing at the date on which this Scheme comes into operation for which no building line is shown on the Map by a *broken red line*, the Council may fix a building line either for the street or for such part thereof as they think fit at such time as may appear to them expedient.

Fixing of building line for existing street for which no building line is shown on Map.

(2) The Council shall give notice of the proposal to fix the building line to the person having control of any land to which the building line relates and to the person having control of any neighbouring land who may, in the opinion of the Council, be affected. The Council shall include in the notice a statement that a plan indicating the position of the building line will be open for inspection at a specified place and that, if any person on whom a notice is required to be served desires to make any representations or objections with respect thereto, he may address them in writing to the Council within a specified period, not being less than fourteen days or more than twenty-eight days from the date of the notice.

(3) Before fixing the building line, the Council shall consider any representations or objections made to them within the specified period.

(4) Upon the fixing of the building line the Council shall forthwith give notice thereof to the persons on whom a notice is required to be served under the provisions of Sub-clause (2) of this Clause and shall include in the notice a statement that a plan indicating the position of the building line will be open for inspection at a specified place.

(5) Any person on whom a notice is required to be served under this Clause and who is aggrieved by the fixing or position of the building line may appeal.

24.—(1) Where a building line for any street or proposed street is shown on the Map by a *broken red line* or is fixed under Clause 22 (Fixing of building line for new street not shown on Map), Clause 23 (Fixing of building line for existing street for which no building line is shown on Map), or Clause 25 (Modification of building lines where a standard width is adopted under the Restriction of Ribbon Development Act, 1935), no building other than boundary walls or fences or buildings permitted in pursuance of Sub-clause (1) of Clause 6 (Buildings etc. not to be erected on reserved lands) shall be erected in front of the building line :

Effect of building line.

Provided that the Council may, if they think fit, permit—

(a) the erection of a building in front of the building line—

- (i) for the purpose of architectural effect; or
- (ii) if, on account of the levels of the site or of adjoining land, or the propinquity of buildings already in front of the building line, or any other special circumstances, compliance with the building line would seriously hamper the development of the site;

(b) the erection in front of the building line of—

- (i) a bay window, porch or other projecting portion of a building;
- (ii) an industrial building or special industrial building at such distance, not being less than *fifteen feet* from the boundary of the street, as the Council may specify;

THE
COUNCIL
OF
THE
CITY
OF
NEW
YORK

IN
THE
CITY
OF
NEW
YORK

IN
THE
CITY
OF
NEW
YORK

IN
THE
CITY
OF
NEW
YORK

IN
THE
CITY
OF
NEW
YORK

IN
THE
CITY
OF
NEW
YORK

IN
THE
CITY
OF
NEW
YORK

(iii) groups of shops or business premises at such distance, not being less than *ten feet* from the boundary of the street, as the Council may specify;

(iv) a lodge or a garage, or other out-building used or intended to be used in connection with a dwelling-house, if the building does not exceed 10 ft. in height (measured from the mean level of the ground surrounding the building to the top of the parapet or half of the height of the roof, whichever is the higher) and is not less than *ten feet* from the boundary of the street.

(2) Before giving permission under the last preceding Sub-clause for any part of a building to be erected at a greater distance in front of the building line than *three feet six inches*, the Council shall, at the expense of the applicant, give notice of the proposal by advertisement in some local newspaper circulating in the Area, and shall consider all objections which may be addressed to them in writing within a period, not being less than fourteen days, to be specified in the notice.

25.—(1) If at any time the Council decide under Clause 10 (Release of land from reservations for new streets or widenings where a standard width is adopted under the Restriction of Ribbon Development Act, 1935) to remove a reservation imposed by the Scheme on land required for a new street or widening, the Council may at the same time determine that any building line shown on the Map by a *broken red line* or fixed under Clause 22 (Fixing of building line for new street not shown on Map) or Clause 23 (Fixing of building line for existing street for which no building line is shown on Map) shall cease to have effect in so far as it prohibits the erection of buildings between the released land and the building line, and thereupon the provisions of the preceding Clause shall cease to apply to the land between the released land and the building line.

Modifica-
tion of
building
lines where
a standard
width is
adopted
under the
Restriction
of Ribbon
Develop-
ment Act,
1935.

(2) The Council shall when informing a person having control of any land of their decision in regard to the removal under the provisions of Clause 10 (Release of land from reservations for new streets or widenings where a standard width is adopted under the Restriction of Ribbon Development Act, 1935) of the reservation of such land, inform him also of their decision under this Clause in regard to any building line fronting such land, and they shall similarly inform the Minister when forwarding to him the duplicate plan showing the released land in accordance with Sub-clause (4) of Clause 10.

(3) Where a building line shown on the Map by a *broken red line* or fixed under Clause 22 (Fixing of building line for new street not shown on Map) or Clause 23 (Fixing of building line for existing street for which no building line is shown on Map) has ceased to have effect by reason of a decision by the Council under Sub-clause (1) of this Clause, or such building line has been included in a standard width adopted with the approval of the Minister of Transport under the Restriction of Ribbon Development Act, 1935, the Council may fix a new building line for the street of standard width taking the place of the new street or widening for which the building line was shown on the Map, at such time as may appear to them expedient, and the provisions of Sub-clauses (2) to (5) of Clause 23 shall apply to the new building line proposed to be fixed under this Clause.

Clause 27. Prevention of obstruction to view at corners and bends.

See Section 19 (1) (h) of the Act.

This Clause is complementary to Section 4 of the Roads Improvement Act, 1925, which confers powers on the Highway Authority in respect of roads maintainable by them.

26. In any street for which a building line is in operation under this Scheme a person shall not be precluded by Section 3 of the Public Health (Buildings in Streets) Act, 1888, from erecting or bringing forward a building beyond the front main wall of the building on either side thereof, if the erection or bringing forward of the building would not contravene the provisions of the Scheme, and the operation of the said Section is hereby suspended so far as is necessary for the purpose of this Clause.

Suspension
of Public
Health
(Buildings
in Streets)
Act, 1888.

27.—(1) Where the Council are satisfied that in the interests of safety the height to which, or the position in which, walls, fences or hedges may be erected, planted or grown on land near the corners or bends of roads ought to be regulated, they may serve upon the owner and occupier of the land a notice imposing restrictions in regard to the height or position of proposed walls, fences or hedges, and the notice shall be accompanied by a plan showing the land to which the notice relates.

Prevention
of obstruction
to view
at corners
and bends.

(2) The restrictions imposed by a notice served under this Clause shall take effect upon the service of the notice and, subject to any decision upon an appeal against the restrictions imposed, shall remain in force until the notice is withdrawn by the Council.

(3) If any person upon whom a notice has been served under this Clause is aggrieved by any restriction imposed by the notice, he may appeal.

(4) A breach of any restriction imposed under this Clause shall be a contravention of this Scheme.

(5) This Clause does not apply to a highway maintainable by the Minister of Transport, or by a County Council or other Highway Authority.

PART IV.—BUILDING RESTRICTIONS AND USE OF LAND.

28. In this Part of the Scheme, except where the context otherwise requires or it is otherwise expressly provided, the following words and expressions have the respective meanings hereby assigned to them:—

Interpreta-
tion.

“ Dwelling-house ” means a house designed for use as a dwelling for a single family, together with such outbuildings as are ordinarily used therewith;

“ Flat ” includes any separate dwelling, not being a dwelling-house, which is designed for use by a single family, whether the dwelling is on more than one floor or not, and a “ block of flats ” means a building containing two or more flats;

“ Residential building ” means a building, other than a dwelling-house, designed for use for human habitation together with such outbuildings as are ordinarily used therewith, and includes a block of flats, a hotel designed primarily for residential purposes and a residential club, but does not include any building mentioned, whether by way of inclusion or exclusion, in the definitions of “ place of instruction ” and “ institution ”;

“ Place of public worship ” means a building designed for use as a church, chapel, oratory, meeting-house, or other place of public devotion, and includes a building designed for use as a Sunday school, and an institute or other building designed for purposes of social intercourse and recreation, within the same site as and associated with any of the foregoing buildings;

Petroleum filling stations.—By Clause 75 the operation of any byelaws which are similar to or inconsistent with any of the provisions of the Scheme is suspended; and the application of Part IV to petroleum filling stations will, therefore, affect byelaws made by the County Council (or the County Borough Council) under the Petroleum (Consolidation) Act, 1928. Suspension by the Scheme is, however, limited to “similar” or “inconsistent” byelaws, and as there might be some dispute about the precise effect of this, administration will be facilitated if the County Council (or the County Borough Council) will repeal any byelaws in force under the Act by an amending byelaw (which the Home Office are prepared to confirm) so far as the byelaws extend to the Area control being left to the zoning provisions.

“Place of instruction” means a building designed for use as a school, college, technical institute, academy, lecture hall or other educational centre, and includes a monastery, convent, public library, art gallery, museum and gymnasium, but does not include a building designed for use wholly or principally as an approved school for the purposes of the Children and Young Persons Act, 1933, or as a school for mentally defective or epileptic children;

“Institution” means a building designed for use as a public or charitable institution, and includes a building designed for use as a hospital, clinic or dispensary, whether public or private, but does not include buildings designed wholly or principally for any of the following uses, namely, as—

(a) a hospital, sanatorium, dispensary or clinic for the treatment of infectious or contagious diseases;

(b) a certified institution, certified house or approved home for mental defectives;

(c) a mental hospital;

(d) a public assistance institution, not being a separate institution for the reception and maintenance of children or of persons suffering from bodily infirmity;

“Place of assembly” includes—

(a) a building designed for use as a public hall, theatre, cinema, music hall, concert hall or dance hall, or for the purposes of exhibitions of trade or industry, fairs and shows;

(b) a building designed for use in connection with a race course, racing track or ground for other sports or amusements which is intended to be ordinarily open to the public on payment of a charge;

(c) a building designed for use as a non-residential club;

(d) any other place of public assembly, whether used for purposes of gain or not, not being a place of public worship or place of instruction or an institution;

“Shop” means a building designed for the purpose of carrying on retail trade, not being a special industrial building or a petroleum filling station, and includes an industrial building on the same premises and ordinarily incidental to the conduct of the retail business thereon;

“Business premises” means a building designed for use as an office or for other business purposes, but does not include a place of instruction or place of assembly or any building mentioned, whether by way of inclusion or exclusion, in the definition of “institution” or a building designed for use as a shop, petroleum filling station, industrial building or special industrial building;

“Petroleum filling station” means a building designed for the purpose of fuelling motor vehicles with petroleum (as defined in the Petroleum (Consolidation) Act, 1928) by way of trade or for purposes of gain;

“Industrial building” means a building, other than a special industrial building, designed for use as a factory or a workshop within the meaning of the Factory and Workshops Acts, 1901 to 1929, and includes any office or other building within the same site, the use of which is incidental to and such as would ordinarily be incidental to the use of such factory or workshop, and a building designed for use in connection with the winning of minerals, or as a water pumping station, warehouse, depository or store;

"Zone."—Reference to "height zone" should be included here, if it is proposed to apply different height restrictions to different parts of the Area.

Clause 30. Erection and use of buildings.

It is to be noted that in this Clause and related Clauses (unlike the rest of Part IV) "buildings" includes structures and erections (Clause 28).

Section 19 of the Act contemplates three main types of restriction on the erection and use of buildings—(a) ordinary zoning, justified on grounds of good development, including amenity and convenience, (b) the temporary prohibition or restriction of building operations (except in individual cases) where the land is not ripe for general building at the time of the making of the Scheme, (c) the permanent prohibition or restriction of building operations where, by reason of the nature or situation of the land, the erection of buildings would involve danger or injury to health or excessive expenditure of public money on the provision of public services.

Use Zones in which immediate development is permitted. (Sub-clause (1) and Part I of Table C.)—The zones shown in this Part should not be inserted in a Scheme without consideration; they may not all be needed. Other forms of use zones which the Responsible Authority consider appropriate to their special needs may be inserted.

It will be unwise as a rule to exclude entirely from a residential zone any class of buildings except "special industrial buildings". The Responsible Authority will be empowered (subject to appeal) to refuse consent to development at variance with the predominant use. The provisions of Clause 32 with regard to the advertisement of applications are also material.

“Special industrial building” means a building designed for the purpose of carrying on any industry, business, trade, process or work included in any of the classes set out in the Third Schedule to this Scheme and includes any office or other building within the same site, the use of which is incidental to and such as would ordinarily be incidental to the use of the building for such purpose;

“Special building” means a building designed for any use other than one of the uses for which the buildings hereinbefore defined are designed;

“Zone” means a portion of the Area shown on the Map by distinctive colouring, hatching or edging or in some other distinctive manner for the purpose of indicating the restrictions imposed by this Part of this Scheme on the erection and use of buildings or the user of land; and the terms “density zone” and “use zone” mean zones indicating restrictions as to density and use of buildings respectively;

In Clause 29 (Predominant use of buildings) in its application to Clause 30 (Erection and use of buildings) and in Clauses 30 to 34 which relate to the erection and use of buildings and use of land, but not elsewhere in this Part of the Scheme a “building” includes a structure or erection.

29.—(1) Where a building is used, or a proposed building is designed, for more than one use, it shall be treated for the purposes of Clause 30 (Erection and use of buildings) as being used or designed partially for each of those uses, but for the purposes of the other provisions of this Part of the Scheme it shall be treated as being used or designed only for its predominant use, and the Council may, and shall, if the person having control of, or proposing to erect, the building makes an application for that purpose, decide which is the predominant use.

Predominant use of buildings.

(2) The applicant, if aggrieved by the decision, may appeal.

Erection and Use of Buildings and Use of Land.

30.—(1) The purposes—

Erection and use of buildings

(a) for which buildings may be erected and used without the consent of the Council;

(b) for which buildings may be erected and used only with the consent of the Council; and

(c) for which buildings may not be erected and used in each of the use zones specified in Part I or Part II of the following Table are shown in the third, fourth and fifth columns of the Table, but no building operations shall be undertaken on land within any of the zones specified in Part II of the Table, unless a general development order applying to the land has come into operation or permission to develop has been granted under Section 16 of the Act.

(2) Building operations are permanently prohibited in the use zone *edged green* and *broad cross-hatched yellow* on the ground that by reason of the situation or nature of the land the erection of buildings thereon would be likely to involve danger or injury to health [or excessive expenditure of public money on the provision of roads, sewers, water supply or other public services].

Both frontages of any road should ordinarily be included in the same use zone.

The Residential Zone.—The only difference between residential zone I and residential zone II is that in the latter residential buildings (i.e., mainly flats) are to be allowed freely, in the former they require the consent of the Responsible Authority. It has been found, however, that in districts where flats are becoming common, the Authority need to exercise some control over the actual siting of flats throughout the residential area; and the Minister is prepared, subject to any objections which may be made locally, to agree to the inclusion of all the residential land in use zone I. In his opinion this will usually be satisfactory, as it seems to him extremely difficult as a rule to distinguish, at the making of the Scheme, between the areas of a district which are considered *prima facie* suitable for flats, and those which are not; but if the Authority think that they have a good case for making a distinction, while still wanting to exercise some control over flats in any part of their district, it can be done by showing a hatching over the “special” areas where flats are *prima facie* unsuitable, including these areas in use zone IA, and applying to that zone the provisions of Clause 32 as to advertisement and third party appeal. See the note to Clause 38.

The Business Zone.—It would not be reasonable to exclude fish friers altogether from this zone, and provision has been made accordingly. Authorities may also like to provide for tripe boilers and if so this trade should be added to column 4.

The Intermediate Zone is suitable for an area where some residential development is certain, but it is reasonable to anticipate some industrial and commercial development.

In such a case it seems sufficient, as is proposed in the Table, to require the consent of the Responsible Authority to the erection of buildings other than dwelling-houses and residential buildings and certain types of buildings ancillary to residential development, but not, as in the residential zones, to confer on neighbouring owners the right to object to proposals for development other than residential development or to appeal against the decision of the Authority to consent to such development.

The Undetermined Zone is suitable only in cases where it cannot be determined whether development when it takes place will be residential, commercial or industrial, but it is desired to prevent the uncontrolled intermixture of various forms of development. This zone should not be included unless a substantial measure of agreement with owners has been secured.

Use Zones in which general development depends upon the issue of a General Development Order. (Sub-clause (1) and Part II of Table C.)—Land should be included in this Part where it is necessary or desirable to prevent general development which is likely to result either in sanitary difficulties, or in premature expenditure of public money for public services, or serious detriment to local amenities.

The Clause has been drafted on the assumption that it will ordinarily be possible to forecast in the Scheme the use and the density of the buildings to be allowed when a General Development Order is made. The use zones in Part II of the Table will as a rule correspond with those in Part I.

Where this forecast is not practicable the zoning can be left until the General Development Order is made, but if compensation is to be excluded it will be necessary to make a Supplementary Order at the same time as this cannot be done by the Development Order. Meanwhile the Clause should be amended by deletion of the reference to Part II of the Table in line 7 of Sub-clause (1), and substitution of “and no building operations shall be undertaken on land edged by *broken blue lines* on the Map” for “but . . . Table” in lines 9-11. A new paragraph should also be added to Clause 31 as follows:—

(2) The use of land edged by *broken lines* on the Map, whether forming the site of a building or not, for a purpose for which in use zone II [use zone VIII] a building may not be erected and used, or may be erected and used only with the consent of the Council, shall not be commenced without the consent of the Council.

Use Zones in which building operations are permanently prohibited or restricted. (Sub-clauses (2) and (3) and Part III of Table C.)—The prohibition of any buildings will seldom be warranted. Authorities should, before imposing an absolute prohibition, make sure that it is fully justified, and that no buildings specially connected with some permissible use of the land will be required.

(3) Building operations are permanently restricted in each of the use zones specified in Part III of the following Table on the ground that by reason of the situation or nature of the land the erection of buildings thereon would be likely to involve danger or injury to health [or excessive expenditure of public money on the provision of roads, sewers, water supply or other public services]; and the purposes—

(a) for which buildings may be erected and used without the consent of the Council;

(b) for which buildings may be erected and used only with the consent of the Council; and

(c) for which buildings may not be erected and used

in each of the said zones are shown in the third, fourth and fifth columns of the Table.

TABLE C.

Use Zone.	Reference to Map.	Purposes for which buildings may be erected and used without Council's consent.	Purposes for which buildings may be erected and used only with Council's consent.	Purposes for which buildings may not be erected and used.
1	2	3	4	5

PART I.

Use Zones in which immediate development is permitted.

<i>I. Residential.</i>	<i>Coloured</i>	<i>Dwelling-houses.</i>	<i>Buildings other than those referred to in column 3 or column 5.</i>	<i>Special industrial buildings.</i>
<i>IA. Residential.</i>	<i>Coloured Hatched</i>	<i>Dwelling-houses.</i>	<i>Buildings other than those referred to in column 3 or column 5.</i>	<i>Special industrial buildings.</i>
<i>II. Residential.</i>	<i>Coloured</i>	<i>Dwelling-houses. Residential buildings.</i>	<i>Buildings other than those referred to in column 3 or column 5.</i>	<i>Special industrial buildings.</i>
<i>III. General Business.</i>	<i>Edged and broad hatched grey over a density colour.</i>	<i>Shops. Business premises. Dwelling-houses. Residential buildings. Places of public worship. Places of instruction. Institutions. Places of assembly.</i>	<i>Buildings other than those referred to in column 3 or column 5. Buildings for the trade of a fish frier.</i>	<i>Special industrial buildings other than those referred to in column 4.</i>
<i>IV. Special Business.</i>	<i>Edged and broad cross-hatched grey.</i>	<i>Shops. Business premises. Places of assembly.</i>	<i>Buildings other than those referred to in column 3 or column 5. Buildings for the trade of a fish frier.</i>	<i>Special industrial buildings other than those referred to in column 4.</i>
<i>V. Industrial.</i>	<i>Edged and fine hatched purple.</i>	<i>Industrial buildings. Business premises.</i>	<i>Buildings other than those referred to in column 3.</i>	—
<i>VI. Special Industrial.</i>	<i>Edged and fine cross-hatched purple.</i>	<i>Industrial buildings. Special industrial buildings. Business premises.</i>	<i>Buildings other than those referred to in column 3.</i>	—

TABLE C.—*cont.*

Use Zone.	Reference to Map.	Purposes for which buildings may be erected and used without Council's consent.	Purposes for which buildings may be erected and used only with Council's consent.	Purpose for which buildings may not be erected and used.
1	2	3	4	5

PART I.—*cont.***Use Zones in which immediate development is permitted—*cont.***

VII. <i>General.</i>	<i>Edged and fine hatched broken purple lines over a density colour.</i>	<i>Buildings other than special industrial buildings.</i>	<i>Special industrial buildings.</i>	—
VIII. <i>Intermediate.</i>	<i>Fine hatched alternately grey and purple over a density colour.</i>	<i>Dwelling-houses. Residential buildings. Places of instruction. Institutions.</i>	<i>Buildings other than those referred to in column 3.</i>	—
IX. <i>Undetermined.</i>	<i>Fine cross-hatched alternately grey and purple.</i>	—	<i>Any buildings.</i>	—

PART II.**Use Zones in which general development depends on the issue of General Development Orders.**

--	--	--	--	--

PART III.**Use Zones in which building operations are permanently restricted.**

--	--	--	--	--

(4) Subject to the provisions of Clause 32 (Advertisement and third party appeal in certain cases) if an application is made to the Council for their consent to the erection and use of a building in a use zone in which a building of the type proposed may be erected and used only with the Council's consent, the Council shall decide whether to give or withhold consent, and in the former event what, if any, conditions shall be imposed :

Provided that before consent to the erection and use of a building in use zone(s) is given or withheld, or conditions are imposed thereon, consideration shall be given to the question whether the use for which the building is intended or designed is likely to cause injury to the amenity of the neighbourhood, including, in the case of an industrial building, injury due to the emission of smoke or fumes, or to dust, noise or smell.

(5) The applicant, if aggrieved by the decision of the Council under the preceding Sub-clause, may appeal.

(6) In this Clause the expression " the erection and use " of a building for a particular use includes the conversion of the building, whether or not involving the structural alteration thereof, to that use.

Clause 31. Use of land.

Sub-clause (2) contemplates that restrictions on the use of land will, so far as they correspond, be similar to the restrictions on the erection and use of buildings, but the Responsible Authority are entitled under the Clause to consent to a use in the case of land to which they cannot consent in the case of a building. They are not entitled to refuse consent to any use of land (otherwise than for building operations) unless it can be shown that the use would cause danger or injury to health or serious detriment to the neighbourhood.

In addition, certain uses of land to which there is no corresponding use of a building may be dealt with expressly—for example, refuse tipping (but a saving for the disposal of refuse for agricultural or industrial purposes may be required), sewage disposal and cemeteries. If it can be shown that any particular use ought to be entirely excluded from particular zones, Sub-clause (1) is appropriate. Ordinarily, however, it will be best that the Responsible Authority should retain power to give consent as in Sub-clause (3).

Another form of development which Authorities may wish to deal with under this Clause is the permanent holiday camp, consisting usually of sleeping huts grouped round a central dining hall. Reference to such camps may be made, in appropriate areas, in Sub-clause (3). Some minor adjustments may be needed to other Clauses since the huts ordinarily rank as buildings, and these will be suggested by the Department when required.

Clause 32. Advertisement and third party appeal in certain cases.

This Clause requires the advertisement of certain controversial proposals, including those which are *prima facie* likely to injure the amenity of a neighbourhood having regard to the predominant use of the zone. The uses suggested in the Clause can be varied, if desired, but the insistence on advertisement (and consequent third party right of appeal) must not be applied to all the uses which need consent in any particular zone, since some of these secondary uses must be expected to find their natural home in the zone—e.g. places of public worship, places of instruction, institutions in residential zones—and are not *prima facie* likely to cause any injury if properly sited.

Licensed premises.—Buildings for this purpose are in a rather special position, as they have to obtain the license of the Justices as well as the consent of the Planning Authority. In cases where it is customary for the Justices to hear applications for licensed premises before plans of the building are submitted to the Authority, an exception in favour of such premises should be made to the requirement that proposals for “shops” in residential zones must be advertised, since third parties will already have had an opportunity of making representations before the Justices.

31.—(1) The use, other than an existing use, of land comprised in use zone(s) Use of land for the purpose of is prohibited on the ground that it is likely to involve [danger or injury to health] or [serious detriment to the neighbourhood].

(2) The use of land comprised in a use zone, whether forming the site of a building or not, for a purpose for which in that zone a building may not be erected and used, or may be erected and used only with the consent of the Council, shall not be commenced without the consent of the Council.

(3) No land comprised in any use zone, other than zone(s) , shall be used for the purpose of without the consent of the Council.

(4) Nothing in Sub-clause (2) or Sub-clause (3) of this Clause shall entitle the Council to withhold consent to the use of land (otherwise than for building operations) or to impose conditions thereon, except for the purpose of preventing danger or injury to health or serious detriment to the neighbourhood.

(5) Subject to the provisions of the next succeeding Clause with respect to advertisement and third party appeal in certain cases, if an application is made to the Council for their consent to the use of land for a purpose for which their consent is required, the Council shall decide whether to give or withhold consent and, in the former event, what if any conditions to impose, and the applicant, if aggrieved by the decision, may appeal.

32.—(1) If an application is made to the Council for their consent to the erection and use of a building or the use of land, whether wholly or partially, for the purposes of— Advertisement and third party appeal in certain cases.

Place of assembly, shop, petroleum filling station, industrial building, special building ... in use zone I or use zone II.

Petroleum filling station, industrial building, building for the trade of fish frier, special building ... in use zone III or use zone IV.

Special industrial building ... in use zone V.

the Council shall, as soon as may be, give notice of the application by advertisement in some local newspaper circulating in the Area.

The notice shall be at the cost of the applicant, and shall state that any objections addressed to the Council in writing within fourteen days after the date of the advertisement will be considered.

(2) The Council shall take into consideration any objections received within the said period of fourteen days, and shall notify the persons, if any, from whom objections were received of their decision at the same time as they notify the applicant, and any of the persons aforesaid, including the applicant, if aggrieved by the decision, may appeal.

(3) The decision of the Council shall not take effect until the expiration of twenty-eight days from the date on which the applicant and the objectors, if any, are notified thereof, or, if an appeal has been made under the provisions of this Clause, until such appeal is disposed of.

Clause 34. Saving for special purposes.

The use zones to be filled in must be residential zones, and the land edged red with serrated border must be land within those zones which is substantially developed for residential purposes. It is useless to include the whole of the residential zones in the exception, without regard to the question of substantial development, as the Minister is not able to accept that. Moreover, the Minister is advised that the "substantially developed" land must be precisely described in the Scheme, and not left to subsequent decision, since by Section 19 he is required *before* approving the exclusion of compensation to be satisfied that any restriction of surface working applies only to land which *has been* substantially developed for residential purposes, and this can only mean which has *at that time* been so developed.

A further proviso to the exception is that surface working must not be prohibited or restricted without payment of compensation over any land in respect of which it can be shown, to the satisfaction of the Minister, that the minerals or the right to win them had been acquired by some person before the material date for the purpose of winning them, or had before that date devolved upon some person desirous of winning them. In this case, however, it is for owners to make representations that their land should not be included in the exception when the Scheme is deposited.

Clauses 35-41. Density.

It is possible to control the density of buildings—

- (a) by prescribing the area of the site of each building;
- (b) by prescribing an average density over an area of land called for convenience a "land unit";
- (c) by a combination of the two methods.

In the Clauses the third of these courses is adopted so far as dwelling-houses are concerned the control contemplated being by prescription of average densities qualified (see Clause 39) by a provision fixing a minimum size for the site of each dwelling-house. Buildings other than dwelling-houses are left entirely to the operation of Clause 42 together, in the case of flats, with Clause 38 which is new to this edition. In the previous issue of the Model it was contemplated that buildings other than dwelling-houses (blocks of flats, shops, business premises, warehouses, etc.) would be taken into account in calculating density over a land unit, being assessed for the purpose in terms of building units—i.e., in effect, in terms of dwelling-houses. It has proved impossible, however, to find a formula which would cover all the various factors, and it is now considered that the new arrangement which provides for the exclusion from any land unit of the "site" of any building other than a dwelling-house (the "site" being at least large enough to comply with Clause 42) will be simpler and equally effective.

Clause 35. Declaration of land units.

The area over which the density is to be measured is called a land unit and its size (subject to the provision contained in Clause 35 (2) and to a right of appeal) is within the discretion of the Responsible Authority. They should ordinarily accept any proposal submitted by an owner for the inclusion in the unit of land within a residential use zone or reserved as a private open space.

Sub-clause (2).—In the previous edition of the Model it was provided that the site of every existing dwelling-house should form a separate land unit unless it exceeded the minimum area of land required to

33. The provisions of this Part of the Scheme with regard to consent to the erection and use of buildings for trade or industry and appeals in connection therewith shall be in substitution for the provisions of Section 107 of the Public Health Act, 1936, and the operation of these provisions is hereby suspended so far as is necessary for the purpose of this Clause.

Offensive trades.

34. Nothing in the foregoing provisions of this Part of the Scheme shall be construed as prohibiting or restricting or enabling the Council to prohibit or restrict—

Saving for special purposes.

(i) the winning of minerals by underground working;

(ii) the winning of minerals by surface working as respects any land except the land (edged *red with serrated* border) in use zone(s) ;

(iii) the use of land or the erection of buildings required for the purposes of a sports or recreation ground, not being a sports or recreation ground ordinarily open to the public on payment of a charge;

(iv) the letting by any occupant of a dwelling-house of any part of the house otherwise than as a separate tenement;

(v) the occasional use of a place of public worship, place of instruction, or institution as a place of assembly;

(vi) the practice by any occupant of a dwelling-house or residential building of a profession or occupation which does not involve either—

(a) the use of the building as an industrial building or special industrial building; or

(b) the public display of goods, whether in a window or otherwise; or

(c) the exhibition of any notice or sign other than a notice or sign ordinarily exhibited on dwelling-houses to indicate the name and profession or occupation of the occupant.

Density.

35.—(1) For the purpose of determining the number of dwelling-houses which may be erected on any land in the Area the Council shall, in accordance with the provisions of this Clause and upon the application of the person or persons having control of the land, declare that the land to which the application relates, or any part thereof, shall form one or more land units.

Declaration of land units.

(2) The site of every dwelling-house erected before the material date, or in pursuance of a contract made before that date or begun before but completed after that date, shall form a separate land unit, unless the Council otherwise decide:

Provided that the site of a dwelling-house exceeds the minimum area of land required to satisfy the provisions of Clause 37 (Number of dwelling-houses which may be erected) as regards that dwelling-house, only so much of the site as is needed to satisfy the provision of that Clause shall be deemed to form a separate land unit, unless the person having control of the land otherwise agrees.

satisfy the density provisions or the owner otherwise agreed. Sometimes, however, dense existing development surrounding or adjoining open land in the same ownership would be so seriously prejudiced by the development of the open land, that it may be right to include the whole or part of the existing development in any land unit declared for the open land. The point has, therefore, been left to the discretion of the Responsible Authority (subject to appeal) but authorities are reminded that in view of the statutory right to replace existing buildings it may not be fair to include dense existing development in a land unit applied for over a large area of open land, unless they are prepared to authorise some increase in the normal density contemplated by the Scheme over at least a part of the open land.

Sub-clause (6).—The provisions of this Sub-clause contemplate the case where the road is of the width normally required by the byelaws. If the road substantially exceeds this width, the inclusion in the land unit of half its width would allow relatively small building plots, without imposing on the owner the obligation of leaving a corresponding portion of the land unit as open space.

This difficulty will not arise in respect of those parts of the Area to which Clause 39 applies, but in other parts of the Area it would be open to the Authority preparing the Scheme to modify the provisions of the Sub-clause so that only a suitable proportion of a road much in excess of byelaw width may be included in the land unit. It should be borne in mind that in the case of proposed new streets where the land in separate ownership fronting on the new street is shallow in depth, the cost of acquisition may be increased if the proportion of the width of the road which may be included in the land unit is limited too severely.

(3) Subject as aforesaid, the Council may include in a land unit—

(a) adjoining land belonging to the applicant other than that to which the application relates; and

(b) adjoining land given by or acquired from the applicant for the purpose of a public open space or of allotments.

(4) The Council may require an applicant for the declaration of a land unit to submit a plan showing the whole of his adjoining land which is not already included in a land unit or such part thereof as they think fit.

(5) On the application of a person having control of land included in a land unit, or if no application is made after giving notice to such person, the Council may vary the land unit; except that no variation of a land unit may be made unless—

(i) notification has been given to every person having control of any land which would be affected; and

(ii) the variation is consistent with the provisions of this Part of the Scheme relating to density and space about buildings.

(6) The half of the width of any road dedicated to the public on which land proposed to be included in a land unit abuts shall be included in the land unit.

(7) The site of any building, other than a dwelling-house which is existing or proposed on the land at the date of the application, shall not be included in the land unit, and if any such building is subsequently erected on the land unit, the site shall be excluded from the unit.

(8) A person who has applied under this Clause for the declaration or variation of a land unit, or who has been notified by the Council of their intention of varying a land unit and is aggrieved by the decision of the Council may appeal.

(9) Where the site of a dwelling-house in a land unit is partly within and partly outside the Area, the Council shall, if the person having control of the site so requires, treat the site as wholly within the land unit:

Provided that the Council may make it a condition of so treating the site that no dwelling-houses shall be erected on the portion of the site outside the Area in excess of the number that would have been permissible if the whole of the site had been within the Area and included in the land unit.

(10) For the purpose of this Clause the submission of a plan for a dwelling-house shall be deemed to be an application for the declaration of a land unit in respect of the land included in the plan.

36.—(1) No dwelling-house shall be erected, and no building shall be converted into a dwelling-house, in any density zone, upon land not included in a land unit.

Restriction
of building
in relation
to land
units.

(2) No building other than a dwelling-house shall be erected on land included in a land unit which has been developed, if the exclusion of the site, in accordance with the provisions of Sub-clause (7) of the preceding Clause, would leave insufficient land to comply with the requirements of the two next succeeding Clauses.

Clause 37. Number of dwelling-houses which may be erected.

Averages of 12, 8 and 6 to the acre are common density standards in new residential neighbourhoods, but Authorities should not adhere rigidly to a maximum of 12 where conditions justify a higher figure. High cost of land, for example, may make a higher figure necessary. In fully or partly developed areas a higher density than 12 will frequently be necessary.

37.—(1) The number of dwelling-houses on a land unit shall not—

(a) if the land is situate within a single density zone, exceed the number obtained by multiplying the number of acres in the land unit by the average per acre specified in the Table below for that zone; or

(b) if the land is situate in more than one density zone, exceed the sum of the numbers obtained by multiplying the number of acres in the land unit within each zone by the average per acre specified in the Table for that zone.

Number of dwelling-houses which may be erected.

TABLE D.

Density Zone.	Reference to Map.	Average number of dwelling-houses per acre.
1	2	3
A.	Coloured	
B.		
C.		

(2) Where it appears to the Council upon the application of a person having control of a land unit that it would be unreasonable to require compliance with the provisions of this Clause owing to difficulty in developing the land in accordance with those provisions on account of—

- (i) the lay-out of any street on or adjoining the land unit which was laid out before the material date; or
- (ii) the small area of land belonging to the applicant and reasonably available for simultaneous development; or
- (iii) the proximity of the land unit to other land (whether in the Area or not) already developed at a greater density per acre than would be permissible under the foregoing Table, or if the said Table does not apply to such other land, at a greater density than would be permissible for the land unit itself,

the Council may permit a reasonable increase in the number of dwelling-houses on that land unit.

(3) A person who has applied under the last preceding Sub-clause for an increase in the number of dwelling-houses and is aggrieved by the decision of the Council may appeal.

(4) In addition to their powers under Sub-clause (2) of this Clause, the Council may, subject to the provisions hereafter in this Clause contained, upon application to them for the purpose by the person having control of any land in density zone(s) , permit an increase in the number of dwelling-houses to be erected on the land, if satisfied that there is reasonable ground for such an increase.

Clause 38. Number of flats which may be erected.

While it would not be reasonable to require for a flat as great a curtilage as for a dwelling-house with the same number of occupants, some curtilage, related to the number of the occupants, should be provided. In the previous issue of the Model the method of establishing a ratio between flats and houses was adopted to achieve this end. It has been found, however, that this method led some local authorities to fix a single ratio for the whole area, which failed to take account of the varying sizes of flats. The Advisory Committee on Town and Country Planning therefore suggested that it would be simpler and more satisfactory to calculate the density of flats according to their probable population, subject to a stiffened overall limitation of the proportion of site which may be occupied by buildings. Clauses 38 and 42 give effect to their suggestion.

Clause 38 leaves it to the Responsible Authority to decide what is a proper population standard in their particular circumstances. The Advisory Committee recommended that 100 persons per acre would be a reasonable maximum in the ordinary suburban 12 or 8 to the acre density zones. In the centres of towns a higher standard must be expected. 100 persons per acre (to be calculated over the net site, by which is meant the area occupied by buildings together with the curtilage, but excluding land in the land unit occupied by roads etc.) corresponds more or less to twice the population that would be accommodated in dwelling-houses (whose density is calculated over the gross site) at a density of from 8 to 12, and where the most common type of flat with two or three bedrooms is concerned, has much the same result as the ratio of two flats to one dwelling-house which has in the past been adopted by many Authorities.

It is suggested that in reckoning up the probable population of any proposed block of flats, the Authority should base their calculation on the number of double and single bedrooms provided, assuming that where there is more than one main room, one will be used as a living room only.

In addition to density there are two other methods of controlling flats. The Authority should consider whether the site is suitable for flats at all (Clause 30); and whether the size, including height and external appearance of the building, are satisfactory in relation to neighbouring development (Clauses 44 and 45). It is important to keep these three issues distinct, and not, for example, to refuse consent for flats under the density provision (Clause 38), if the real ground for refusal is that flats are objected to as such (Clause 30) or that the building is disproportionate or ugly (Clause 45).

In the Minister's view flats are not necessarily incompatible with neighbouring dwelling-houses provided that due consideration is given to their setting and appearance. It is not, therefore, as a rule desirable to attempt to specify in the Scheme, areas which are suitable for flats, and areas which are not. Where, however, there is considered to be a special case for making such a distinction (as e.g. in a quarter which has established a consistent architectural character with which any flats, however designed, may be expected to be in conflict; or in a quarter whose street pattern is generally unsuited to the higher population of flats), this may be contrived without sacrificing control under Clause 30 over flats in the ordinary mixed areas, by providing for advertisement of and third party appeal against proposals to erect flats in the special quarters. See the note to Clause 30.

The control of size and external appearance is probably the most effective method of all. The Responsible Authority may refuse permission to a block of flats, notwithstanding that the population will not exceed the accepted number per acre, and that the neighbourhood is suitable for the erection of flats, if they consider that the block will be detrimental to adjoining houses because of its size or external appearance. In view of this wide power it has not been thought necessary to add a graded population standard for the low density zones, as here the quality of the building is likely to matter much more acutely than the number of people to be housed. If, however, authorities wish to grade down the normal population standard in the 6 and 4 density zones there is no reason why they should not do so, provided that they are able to maintain that the restriction is needed to protect the amenity or convenience of the neighbourhood.

Clause 39. Minimum size of plots.

The object of this Clause is to prevent the undue concentration of dwelling-houses in one part of the land unit. The Council have additional powers to control the arrangement of buildings under Clause 46, but that Clause carries a liability to pay compensation which this, if reasonable, need not.

(5) If an application is made to the Council under the last preceding Sub-clause, the Council shall as soon as may be give notice of the application by advertisement in some local newspaper circulating in the Area.

The notice shall be at the cost of the applicant and shall state that any objections or representations addressed to the Council in writing within fourteen days after the date of the advertisement will be considered.

The Council shall take into consideration any objections received within the said period of fourteen days and shall decide whether to give or withhold consent, and in the former event what, if any, conditions shall be imposed and they shall notify the persons, if any, from whom objections were received of their decision, at the same time as they notify the applicant, and any of the persons aforesaid, including the applicant, if aggrieved by the decision, may appeal.

(6) The decision of the Council shall not take effect until the expiration of twenty-eight days from the date on which the applicant and the objectors, if any, are notified thereof, or, if an appeal has been made, until such appeal is disposed of.

38.—(1) The number of flats on a site shall not exceed a number to be decided by the Council upon the application for approval of a person proposing to erect flats (which application shall be accompanied, in addition to the plans and particulars required by Clause 61 (Submission of plans) by a plan of each floor of the proposed block of flats) and in making their decision the Council shall have regard to the size of the flats proposed and the number of persons which the flats are designed to accommodate.

Number of flats which may be erected.

(2) The Council shall give notice to the applicant of any decision under this Clause, and the applicant, if aggrieved by their decision, may appeal.

39. Except where under Sub-clause (2) or Sub-clause (4) of Clause 37 (Number of dwelling-houses which may be erected) the Council permit an increase in the number of dwelling-houses which may be erected, no dwelling-house shall have a site of an area less than square yards in density zone or square yards in density zone :

Minimum size of plots.

Provided that the Council shall have power to allow dwelling-houses to have sites less in area than is required by the foregoing provisions where the buildings are arranged to the satisfaction of the Council.

40.—(1) If the land comprised in a land unit in respect of which an estate development plan has not been approved by the Council under Clause 46 (Siting of buildings) is or becomes vested in two or more persons, and those persons fail to agree as to the number of dwelling-houses to be erected on their respective portions of the land, the Council shall, upon the application of the person having control of any portion of the land, decide what proportions of the maximum permissible number of dwelling-houses may be erected on the land belonging to the applicant and on the remainder of the land unit respectively.

Land units vested in more than one owner.

The minimum size of plot should be fixed in relation to the density zone to which it is applicable so as to provide for a generous margin for streets and variation in the size of plots. Moreover it is often better to leave a certain amount of open space common to a group of dwelling-houses than to include all the land in curtilages.

The following minima, which, it will be noted, provide for the allocation of 3,000 to 3,200 square yards of the 4,840 square yards in an acre, are suggested for general guidance in relation to density standards commonly adopted in Schemes—

Density.	Minimum size of plot.
12	250 sq. yds.
8	400 sq. yds.
6	500 sq. yds.

If it is desired to provide for minimum frontages and depths of plots according to density, the Table can be expanded by the addition of one or two columns as required, or with an appropriate reference in the Clause. It must be noted, however, that compensation cannot be excluded for such restrictions and an exception will be necessary to the reference in Part IV in Clause 78.

Clause 42. Proportion of site which may be occupied by buildings.

The limit which may properly be placed on the proportion of site which may be occupied by buildings will depend on local circumstances. In particular, the proportion which would be appropriate for land on the outskirts of towns will normally be inappropriate in the central areas of towns. The following figures are based on proportions which are generally suitable for land on the outskirts of towns.

Col. 2.	Col. 3.	Col. 4.
$\frac{1}{2}$	$\frac{1}{2}$	$\frac{3}{4}$
$\frac{1}{4}$	$\frac{1}{3}$	$\frac{2}{3}$

As regards proviso (i), figures of 2,500 (in two places), and maximum limits of 3-5ths in the case of dwelling-houses or block of flats, 2-3rds in the case of other residential buildings, institutions or places of instruction, and 4-5ths in the case of any other building, are suggested where the figures set out above are adopted.

Where differentiation between different parts of the Area is necessary, as, for example, where the area includes both developed and undeveloped land, the necessary provision can be made by subdividing columns 2, 3 and 4 vertically, each subdivision relating to a specified part of the Area.

(2) Before deciding any application to them under the foregoing provisions of this Clause, the Council shall give notice thereof to the other person or persons in whom the land is vested and shall consider any representations made to them in the matter. After deciding the application the Council shall notify all the persons in whom the land is vested of their decision.

41. The Council shall keep, so as to be available for inspection at all reasonable times a register identifying each land unit by reference to a map, and showing the date on which the unit was fixed or varied, and the particulars and the date of any apportionment made by the Council under the last preceding Clause.

Registra-
tion of land
units.

Space about Buildings.

42.—(1) The space occupied by buildings shall not exceed the proportion of their site indicated in the following Table :—

Proportion
of site
which may
be occupied
by
buildings.

TABLE E.

Height of building.	Dwelling houses and blocks of flats.	Residential buildings other than blocks of flats, places of instruction and institutions.	Other buildings.
1	2	3	4
Buildings not exceeding 30 ft. in height nor more than one storey above ground level over more than one- quarter of the ground occupied by the build- ing			
Buildings exceeding 30ft. in height or more than one storey above ground level over more than one-quarter of the ground occupied by the building ...			

Provided that—

- (i) in the case of a building to be erected upon a site which was in separate ownership or was separated from adjacent sites by walls or fences before the material date and is of less than square feet the proportions set out in the Table shall be increased in the ratio of to the number of square feet in the plot, subject to a limit of in the case of a dwelling-house or block of flats, of in the case of a residential building other than a block of flats, institution or place of instruction, and of in the case of any other building;
- (ii) upon the application of any person who desires to erect a building the Council may permit a reasonable increase in the proportion of the site which may be occupied by buildings, if by reason of any of the circumstances mentioned in Sub-clause (2) of Clause 37 (Number of dwelling-houses which may be erected)

Clause 43. Breaks in buildings.

Reasonable standards for minimum distances between buildings are six, eight and ten feet, according to the density of the development. Half the distances prescribed in the first Table of Sub-clause (2) should be inserted in the second Table.

or of the fact that the site abuts on two or more streets or other special circumstances it is proper so to do, and if the applicant is aggrieved by a decision of the Council under this paragraph, he may appeal;

(iii) where a proposed building is designed predominantly for use as a dwelling-house or residential building, but the dwelling accommodation will be wholly above the ground floor, the space to be left unoccupied by buildings shall be measured at the level of the lowest floor on which the dwelling accommodation is provided and the space to be left unoccupied by buildings on the ground level shall be reckoned as though the building fell within column 4 of the Table.

(2) For the purposes of this Clause—

(a) A dwelling-house includes a building designed externally in the form of a dwelling-house, though intended as a dwelling for more than one family;

(b) An institution includes institutions of the kinds mentioned by way of exclusion in the definition of "institution" in Clause 28 (Building restrictions and use of land.—Interpretation);

(c) A place of instruction does not include buildings of the kinds mentioned in the definition of the term in Clause 28 (Building restrictions and use of land.—Interpretation) except a school, college, technical institute, academy, monastery or convent;

(d) The height of a building shall be measured from the mean level of the ground surrounding the building to the top of the parapet, or half the height of the roof, whichever is the higher;

(e) In measuring the space unoccupied by buildings at the level of any floor above ground floor level, space occupied by sky-lights, parapets, pitched-roofing or similar projections, in so far as they do not project more than 2 ft. 6 ins. above the level of the floor, and space occupied by chimneys, shall count as unoccupied space;

(f) Where the site of a proposed building is partly within and partly outside the Area, the Council shall, if the person having control of the land so requests, treat it as wholly within the Area, but they may make it a condition of so treating the site that no buildings are erected on the portion of the site outside the Area so as to occupy, together with the buildings on the portion of the site within the Area, a greater proportion of the site as a whole than could have been occupied if the whole of the site had been within the Area.

(3) This Clause does not apply to the erection in use zone(s) of an industrial building or a special industrial building.

43.—(1) The number of dwelling-houses which may be erected in one continuous block shall not exceed—

Breaks in buildings.

.....in.....zone(s).....

.....in.....zone(s).....

.....in.....zone(s).....

(2) No building shall be erected in such a position that the distance between a dwelling-house and any other

Clause 44. Limitation of height of buildings.

The figures in paragraph (a) are suggestions only, and may be altered according to the circumstances of each particular area. The maximum height limit (left blank in paragraph (b)) should not as a rule be lower than 50 feet and, in some cases, should be not less than 100 feet.

Where it is desired to apply different height restrictions to different parts of the Area, paragraphs (a) and (b) of Sub-clause (1) may be set out in table form with different heights applying in different use or density zones, or parts of such zones, specially hatched.

Proviso (iv) enables the Council to allow the limits to be exceeded in the case of a place of assembly. It is open to the Council to include a similar provision in the case of other buildings if they think it advisable.

building, whether a dwelling-house or not, on land in the same ownership, is less than—

..... feet in zone(s)

..... feet in zone(s)

..... feet in zone(s) :

and no building shall be erected at a less distance from the owner's boundary, other than the boundary of a street, than—

..... feet in zone(s)

..... feet in zone(s)

..... feet in zone(s) :

Provided that the foregoing requirements with regard to distance from other buildings or from the owner's boundary shall not apply to—

(a) an outbuilding not exceeding 10 ft. in height (measured from the mean level of the ground surrounding the outbuilding to the top of the parapet or half the height of the roof, whichever is the higher);

(b) the connection of two buildings by a connecting wall, arch or other architectural feature;

and in the case of a building which forms or is intended to form part of a continuous block and does not contravene the foregoing restriction on the number of dwelling-houses in one continuous block, the said requirements with regard to distance from other buildings or from the owner's boundary shall apply only to such parts of the said building as are not or would not be contiguous to any other building or intended building in the same continuous block.

(3) Notwithstanding the provisions of this Clause, the Council may, if they think fit, permit—

(a) a larger number of dwelling-houses in one continuous block where the buildings are arranged to the satisfaction of the Council;

(b) a building nearer to any other building or to the owner's boundary than the distance specified in Sub-clause (2) of this Clause, where it appears to the Council that in the special circumstances of the case it would be unreasonable to require compliance with the provisions of that Sub-clause;

(c) the connection of two buildings at or above their first floor level.

(4) For the purposes of this Clause a dwelling-house includes a building designed externally in the form of a dwelling-house, though intended as a dwelling for more than one family.

Height of Buildings.

44.—(1) No building shall be erected so as—

(a) to project above a line drawn from the centre of the street in front of the building at an angle of 56° from the horizontal or if the street is of any one of the types described in the First Schedule to this Scheme at an angle of 45° from the horizontal; or

(b) to exceed a maximum height of feet measured from the mean level of the ground immediately surrounding the building to the highest point of the building :

Limitation
of height of
buildings.

Clause 45. External appearance of buildings.

See Section 12 of the Act. Materials of construction are within the scope of control under the Clause only in so far as they affect external appearance. It is not contemplated that this power of controlling external appearance will necessarily be exercised over the whole of a planning area. Usually it will not be appropriate in zones which are primarily industrial. Even in these zones, however, control of the external appearance of buildings may sometimes be desirable either because the standard of existing factory development is high and ought to be maintained, or because the absence of control may be prejudicial to the amenity of neighbouring localities.

Attention is drawn to Circular 940, in which the Minister informed Local Authorities that the Royal Institute of British Architects and the Council for the Preservation of Rural England have appointed voluntary panels of Architects in all parts of the country and that these panels are prepared to advise Local Authorities and private developers.

A reference to size is included in the Clause. Some Local Authorities have desired to insert in a Scheme a limitation of the size of houses according to density, but in the Minister's view this is not reasonable and size should be controlled only to the extent to which it constitutes a disfigurement. Even so the power must be applied with caution especially in relation to houses of persons of small means.

Sub-clauses (3), (4) and (5).—The following amendments should be made where it is desired that the appeal shall be to a Court of Summary Jurisdiction instead of to the Special Tribunal.

(i) Substitute for the Sub-clauses the following Sub-clause—

(3) The building owner, if aggrieved by the decision of the Council, may appeal, and the grounds of his appeal may include the ground that compliance with the Council's decision would involve an increase in the cost of the building which would be unreasonable having regard to the character of the locality and of the neighbouring buildings.

(ii) Clause 63. Omit "other than a decision under Clause 45 (External appearance of buildings)".

Provided that for the purposes of this Sub-clause—

(i) a street which was in existence at the material date and which has a less width than *thirty feet* shall for the purposes of this Clause be deemed to have a width of *thirty feet*;

(ii) account shall be taken of parapets but not of chimneys, or of ornamental towers, turrets or any other such architectural features;

(iii) if a part of a building abuts on two intersecting streets, the height of that part of the building for such distance as the Council may consider proper shall be determined by reference to the width of the wider street;

(iv) in the case of a place of assembly the Council may permit either or both of the limits imposed by this Sub-clause to be exceeded to such extent as they think fit.

(2) This Clause does not apply to the erection in use zone(s) of an industrial building or a special industrial building.

External Appearance of Buildings.

45.—(1) The external appearance of any building intended to be erected on land in any of use zones or in any private open space shall, if the Council so require, be subject to their approval, and a person intending to erect a building on such land (in this Clause referred to as the “building owner”) shall, if required by the Council so to do, apply to them for approval of the external appearance of the building, submitting for the purpose drawings and particulars in accordance with the provisions of Clause 61 (Submission of plans).

External
appearance
of buildings.

(2) The Council shall approve the external appearance of the building, or if they consider that, having regard to the character of the locality or of the buildings erected or proposed to be erected therein, the building would disfigure the locality by reason of its external appearance or of its size, withhold their approval or give it subject to appropriate modifications or conditions.

(3) For the purposes of this Clause the Council shall constitute in the manner provided in the Fourth Schedule to this Scheme a standing tribunal of appeal (hereafter in this Clause referred to as “the Tribunal”), and the procedure with respect to appeals shall be as provided in the said Schedule.

(4) Within twenty-eight days after receiving notice of the decision of the Council the building owner, if aggrieved by that decision, may appeal to the Tribunal, and the grounds of his appeal may include the ground that compliance with the Council’s decision would involve an increase in the cost of the building which would be unreasonable having regard to the character of the locality and of the neighbouring buildings.

An appeal shall, in addition, lie against a refusal of the Council to give or unreasonable delay on their part in giving a decision, and shall be made to the Tribunal as if it were an appeal against a decision of the Council.

(5) The decision of the Tribunal shall be final and shall have effect as if it were the decision of the Council and the Tribunal may order by whom and in what manner any costs incurred in connection with the appeal shall be paid, and any costs so ordered to be paid shall be recoverable summarily as a civil debt.

(6) In any case in which particulars have to be furnished under this Clause the erection of a building before the particulars have been approved, or, if the particulars have been approved, otherwise than in accordance with them, shall be a contravention of the Scheme.

Clause 46. Siting of Buildings.

This Clause should not be applied to industrial zones and may not always be thought necessary in business zones.

The object of the Clause is to enable Responsible Authorities to determine where on the land a building should be placed. The power is very wide and Authorities will be entitled to require a reduction in the total number of buildings proposed by the developer—even in an extreme case to prohibit any building—but compensation cannot be excluded, and if the number of buildings is reduced below what is permitted by the density provisions of the Scheme, a claim for compensation may follow.

The Clause should be useful in enabling Responsible Authorities to break up ribbon development; to prevent buildings from being placed where there is not sufficient access, or in the line of access to and from other land; and to improve the layout and arrangement of estates. Some Authorities have achieved excellent results where development is impending by preparing in advance skeleton layout plans for sections of their areas.

Where an Authority wish to disapprove a plan because access to neighbouring land will be blocked, they may reasonably ask the owner of the neighbouring land to co-operate as regards any expenditure that may be incurred.

Siting of Buildings.

46.—(1) The siting of any building intended to be erected on land in any of use zones shall be subject to the approval of the Council, and a person intending to erect a building on such land (in this Clause referred to as the “building owner”) shall before commencing the erection apply to the Council for approval to the siting of the building, submitting for the purpose an estate development plan in accordance with the provisions of Clause 61 (Submission of plans).

Siting of
Buildings.

(2) On receiving an application the Council shall notify the person having control of any neighbouring land the development of which is in their opinion likely to be substantially affected by the determination of the siting of the proposed building that—

(a) an estate development plan has been submitted to them; and

(b) before approving the siting they will have regard to any proposals for the development of such neighbouring land which he may produce to them within one month from the date of the notice.

(3) The Council shall afford the building owner and any person notified under the last preceding Sub-clause reasonable facilities for inspecting any plan submitted under this Clause.

(4) The Council shall approve the siting of the proposed building, or if they consider that the siting of the building will be—

(a) inconvenient on account of the insufficiency of means of communication between the building and a street which is either a highway repairable by the inhabitants at large or has been laid out and constructed in accordance with the byelaws for the time being in force with respect to new streets; or

(b) likely to prejudice the development of neighbouring land; or

(c) injurious to amenity,

they shall disapprove the siting of the building, or approve it subject to appropriate modifications or conditions. If any proposals have been submitted to the Council under Sub-clause (2) of this Clause, the Council shall notify the person who submitted the proposal of their decision under this Sub-clause at the same time as they notify the building owner.

(5) A person who proposes to sell land for the purpose of development or to divide it into parcels with a view to its sale and subsequent development, may submit an estate development plan to the Council under this Clause for their approval of the siting of the buildings, and if the plan so submitted is approved, any person subsequently intending to erect a building on the land may do so in accordance with the approved plan without submitting a further estate development plan under this Clause.

(6) On the application of a person having control of any land included in an approved estate development plan, the Council may, as regards land under his control, vary the plan or approve a new estate development plan, and the application shall be in all respects as though it were an application under Sub-clause (1) of this Clause.

Clause 49. Preservation of trees.

The figures suggested in the Clause can be reduced where circumstances warrant it, e.g. normally in seaside towns, but the power to preserve trees should be exercised with discrimination; and Local Authorities should not attempt to preserve every tree in their area. The intention is to protect ornamental timber, and where groups are concerned Authorities should be able to indicate the important ones on the Map. If they are left to subsequent registration they may be destroyed before any action is taken.

(7) An applicant who is aggrieved by a decision of the Council under this Clause may appeal.

(8) No building shall be erected in any of use zones except in accordance with an estate development plan approved by the Council or by the Minister on appeal.

(9) For the purpose of this Clause the erection of a building does not include the structural alteration of, or the making of any addition to, a building.

General.

47. Where the site of a building or proposed building or a building plot is partly within the Area and partly within the area of some other planning scheme, the provisions of the other scheme corresponding to this Part of this Scheme shall apply to the part of the building or plot which is within the area of this Scheme in place of the provisions of this Part of this Scheme in the following cases, namely—

Buildings
and plots
partly
within Area.

(a) if the greater part of the street frontage of the building or proposed building is or would be within the area of the other scheme;

(b) in the case of a building or proposed building which has or would have no street frontage, if the greater part of the building is or would be in the area of the other scheme; and

(c) in any other case if the greater part of the plot is within the area of the other scheme.

PART V.

GENERAL AMENITY AND CONVENIENCE.

48. In this Part of the Scheme, unless the context otherwise requires or it is otherwise expressly provided, the following words and expressions have the respective meanings hereby assigned to them :—

Interpreta-
tion.

“ Private open space ” means land reserved for use as a private open space under Clause 5 (Reservation of lands);

“ Public open space ” includes land which is at the date on which this Scheme comes into operation a playing field belonging to a local authority and land reserved under Clause 5 (Reservation of lands) for use as a public open space or a playing field.

49.—(1) If at any time the Council, having regard to the amenity of any part of the Area, are of opinion that any growing tree of a height of more than thirty feet or having a trunk of a girth of more than two feet six inches, at a height of five feet above the ground, ought to be preserved, they may register the tree for the purposes of this Clause, and shall thereupon notify the owner and occupier of the land upon which the tree is growing that the tree has been registered.

Preserva-
tion of
trees.

(2) The register of trees so made shall be open to inspection at all reasonable times.

(3) The following provisions shall have effect in regard to a tree registered under this Clause and to any tree which forms part of any of the groups of trees, particulars of

which are set out in the Table below :—

(i) No person shall cut down, lop, top or wilfully destroy any such tree except—

(a) in compliance with an obligation imposed by or under any Act of Parliament; or

(b) in pursuance of a power conferred on the Postmaster General by virtue of Section 5 of the Telegraph (Construction) Act, 1908; or

(c) in the case of a local or public authority or statutory undertakers, in the exercise of any powers conferred on the authority or undertakers by or under any Act of Parliament; or

(d) where the tree is dying or dead or has become dangerous; or

(e) to such an extent as may be necessary to prevent its constituting a nuisance, or permissible in pursuance of a right to abate a nuisance; or

(f) with the consent of the Council; or

(g) under an order on an appeal made under this Scheme; or

(h) in the course of thinning operations carried out in accordance with the principles of good forestry :

Provided that, if the Council do not notify their refusal to consent to the cutting down, lopping, topping or destruction of any such tree within one month from the date of an application for consent, their consent shall be deemed to have been given.

(ii) Any owner or occupier of land upon which any such tree is growing who is aggrieved by a refusal of the Council to consent to the cutting down, lopping, topping or destruction of such tree may appeal.

(4) (a) The Council may at any time cancel the registration of any tree registered as aforesaid and shall thereupon make an appropriate alteration in the register of trees and notify the owner or occupier of the land upon which the tree is growing of the cancellation, and as from the date of such cancellation the provisions of this Clause shall cease to apply to such tree.

(b) The Council may at any time determine that the provisions of this Clause shall cease to apply to any group of trees of which particulars are given in the Table and if they so determine shall give notice accordingly to the owner and occupier of the land upon which the group of trees is growing.

TABLE F.

Reference to Map.	Description and situation.
Coloured and numbered	

Clause 50. Protection of Woodlands.

Owners should be consulted before these areas are settled. Any woodland to be scheduled should be land with timber or coppice; and should be large enough for forestry operations to be practicable—probably not less than 5 acres. It will be noted that where an area of woodland is specified for protection, the owner is not precluded from felling the trees or coppice; he is only obliged to undertake such replanting as is in accordance with the practice of good forestry. Any question whether replanting under Sub-clause (2) is or would be in accordance with the practice of good forestry is, on the application of either party, to be determined by the Forestry Commissioners, under Section 46 (3) of the Act.

Clause 51. Maintenance of private gardens, etc.

The use zones to be protected under this Clause should ordinarily be residential, and, possibly, intermediate and undetermined zones.

The words in [] are required only if the Scheme includes land temporarily restricted against general development which is not included in a use zone.

Clause 52. Advertisements.

See Section 47 of the Act. Not all use zones will need protection, and in some cases it may not be necessary to protect the whole of a particular use zone. The words in [] are required only if the Scheme includes land temporarily restricted against general development which is not included in a use zone.

By Clause 75 the operation of the byelaws which are similar to or inconsistent with any of the provisions of the Scheme is suspended, and the inclusion of this Clause will therefore affect byelaws under the Advertisement Regulation Acts, 1907 and 1925. Suspension by the Scheme is, however, limited to "similar" or "inconsistent" byelaws, and as there might be some dispute about the precise effect of this, administration will be facilitated if they are repealed by an amending byelaw (which the Home Office are prepared to confirm) in so far as they extend to an area in respect of which provision in regard to advertisements is also made under the Scheme.

50.—(1) The areas of woodland of which particulars are given in the following Table shall be areas protected under Section 46 of the Act:—

Protection
of wood-
lands.

TABLE G.

Reference to Map.	Description and situation.

(2) If any part of an area of woodland specified under the preceding Sub-clause is felled, the owner shall undertake such replanting as would be in accordance with the practice of good forestry.

51.—(1) Where it appears to the Council that the amenity of use zone(s) [or of the land edged by *broken blue lines* on the Map] or of any public open space or private open space is seriously injured by the condition of any garden, curtilage or private open space in the Area, the Council may serve a notice on the person by whose action or omission the injury arises (including the owner of unoccupied premises), requiring him, within such period, not being less than twenty-eight days from the date of service of the notice, as may be specified in the notice, to take such action as may be necessary to abate the injury.

Mainten-
ance of
private
gardens,
etc.

(2) If the person on whom the notice is served fails to comply with the notice, the Council may cause complaint to be made to a Court of Summary Jurisdiction, and that Court may issue a summons requiring the person to appear before them and, if satisfied that the alleged injury exists, may make an order directing the person to comply with the requisition or otherwise to abate the injury and to do anything necessary for the purpose within a time specified in the order. Failure to comply with such an order shall be a contravention of this Scheme.

The order may also empower the Council themselves to take any action which the person has been directed to take, if he fails to do so, and the Council may recover the cost of taking any such action from that person summarily as a civil debt.

52.—(1) The land included in use zone(s) [land edged *broken blue lines* on the Map] and any public open space or private open space shall be land protected under the provisions of Section 47 of the Act in respect of advertisements.

Advertise-
ments.

(2) The Council may, if they think fit, on the application of any person interested, authorise the display of any particular class of advertisements either unconditionally or subject to conditions in respect of the position or manner in which, or the period during which, the advertisement may be displayed.

(3) Any person who has applied to the Council for authority under this Clause and is aggrieved by the refusal of the Council to grant authority or by any conditions imposed by the Council may appeal.

Clause 53. Provision of loading accommodation.

See Section 17 of the Restriction of Ribbon Development Act, 1935. The Clause is only required for the control of small buildings outside the scope of the Act.

The space for vehicles to be provided under the Clause must be within "the site" of the new building, but may be provided, where the Authority consider suitable, by throwing part of the site into the street in the form of a bay.

Sub-clause (5).—This definition is necessary for the reason that the term "erection of a building" is not defined in Section 19 of the Act which governs this Clause, and may have a meaning different from that given to it in Clause 2 (1) for the general purposes of the Scheme

(4) For the purposes of Sub-section (6) of Section 47 of the Act it is hereby provided that—

(i) advertisements which relate solely to a trade or business carried on, or to an entertainment, meeting, auction or sale to be held upon or in relation to the land upon which the advertisements are displayed, which do not contain letters, figures or advertising emblems or devices exceeding 6 ins. in height, and do not (except where affixed to and not projecting above a vertical wall of a building) exceed a height of 12 ft. from the ground, and

(ii) advertisements on the door or in the window of a building which do not contain letters, figures or advertising emblems or devices exceeding 6 ins. in height

shall not be subject to the provisions of Sub-section (1) of that Section.

53.—(1) A person proposing to erect in the Area a building which will front or abut on any highway or intended highway and is intended to be used for purposes of business or industry (in this Clause referred to as a “building owner”) shall give not less than twenty-eight days’ notice thereof to the Council before commencing to erect the building.

Provision of
loading
accommo-
dation.

An application to the Council for consent to, or approval of, the erection of a building intended to be used for purposes of business or industry or the submission to the Council of plans, specifications or other particulars for approval under any other provision of this Scheme or under the byelaws or local Acts shall be a sufficient notice of the proposal for the purposes of this Clause.

(2) For the purpose of preventing obstruction of traffic on any highway or intended highway on which the proposed building would front or abut the Council may within twenty-eight days of the receipt of the notice referred to in Sub-clause (1) of this Clause require the building owner to submit for their approval proposals for securing that, so far as is reasonably practicable, suitable and sufficient accommodation shall be provided within the site for any loading, unloading or fuelling of vehicles which is likely to be habitually involved in connection with the use of the building.

(3) If the Council require proposals to be submitted under this Clause, or if the building owner submits proposals together with the notice referred to in Sub-clause (1) of this Clause, they shall approve the proposals, or disapprove them, or approve them subject to appropriate modifications or conditions, and the building owner, if aggrieved by the decision of the Council, may appeal.

(4) It shall be a contravention of this Scheme—

(a) if a person who submits or is required to submit proposals under this Clause erects a building without the proposals having been approved; and

(b) if at any time the owner or occupier of the building in respect of which proposals under this Clause have been approved undertakes or knowingly permits the habitual loading or unloading or fuelling of vehicles otherwise than in accordance with the proposals.

(5) For the purposes of this Clause the erection of a building has the same meaning as in Sub-section (1) (l) of Section 19 of the Act.

(6) The foregoing provisions of this Clause shall not apply to any building to which Section 17 of the Restriction of Ribbon Development Act, 1935, applies.

PART VI.

MAINTENANCE, USE, ALTERATION, EXTENSION
AND REPLACEMENT OF EXISTING BUILDINGS,
AND CONTINUANCE OF EXISTING USE OF LAND.

54. An existing building or an existing work may be maintained and may be used for its existing use and an existing use of land may be continued :

Power to prohibit maintenance or use of existing buildings and continuance of existing use of land.

Provided that, except as provided in the next succeeding Clause—

(a) where there is an existing building or work the erection or carrying out of which would have contravened some provision of this Scheme if it had taken place after the date on which the Scheme comes into operation or had taken place after that date without the consent of the Council; or

(b) where there is an existing use of an existing building which would have contravened some provision of this Scheme, if the building had been erected after the date on which the Scheme comes into operation, or had been erected after that date without the consent of the Council; or

(c) where an existing use of land would have contravened some provision of this Scheme if it had been commenced after the date on which the Scheme comes into operation or had been continued after that date without the consent of the Council,

the Council may serve on the owner and occupier of the building, work or land, notices (in this Part of the Scheme referred to as “ warning notices ”) that at the expiration of a period to be specified in the notices, not being less than twenty-eight days, the retention of the building or work or the continuance of the use of the building or land will be a contravention of the provisions of the Scheme, and upon the expiration of that period the provisions of Section 13 of the Act relating to the removal, pulling down or alteration of contravening buildings and the prohibition of contravening uses, and of Section 18 and Subsection (2) of Section 20 of the Act enabling compensation to be claimed, shall apply accordingly.

55.—(1) If an existing building or work is such that its erection or carrying out after the date when the Scheme comes into operation would have been permissible with the consent of the Council, or if an existing use of an existing building would have been permissible with such consent had the building been erected after that date, or if an existing use of land is such that if it had been commenced after that date it would have been permissible with the consent of the Council, the person having control of the building or work or land may—

Existing buildings and uses of land for which approval may be sought.

(a) at any time before the Council have served on him a warning notice apply to the Council for their approval of the building or work or of the continuance of the existing use, as the case may be, and may appeal against a decision of the Council withholding such approval; or

(b) after the Council have served on him a warning notice appeal against the notice,

and upon any such appeal the Minister shall have power, if he thinks fit, to approve the building or work or the continuance of the existing use, as the case may be.

Clause 56. Alterations and extensions of existing buildings.

It may be reasonable to modify the Clause in its application to particular buildings so as to allow their alteration or extension beyond the limits set out in the Clause or to allow extension even though the buildings were erected in pursuance of permission given by or under an interim development order.

Clause 57. Replacement of existing and certain other buildings.

Sub-clause (2).—Paragraph (ii) (d) of Section 19 (2) of the Act provides that where the use of an existing building is declared in the Scheme to be noxious or offensive, replacement of the building may be prevented without payment of compensation. If the Authority desire to avail themselves of this power a proviso may be added to Sub-clause (2) in the following terms:—

Provided that new buildings substituted for the buildings hatched
in use zone(s) shall not be used for the
purpose of being a use which would be contrary
to the provisions of this Scheme, and also of a noxious or otherwise
offensive character.

and reference to the proviso made at the end of Clause 78.

The building and the use where replacement is to be prohibited must be specified in the proviso, and the curtilage of the building must be shown on the Map by a special notation; and in order to justify the prohibition, the use of the building must be one to which, in accordance with Table C in Clause 30, consent would be required, or one which is shown in that Table as prohibited in the particular zone; and it should be either one of the uses specified in the Third Schedule to the Clauses or a use of a similar kind.

(2) If an appeal is made against a warning notice, the operation of the notice shall be suspended pending the decision on the appeal.

(3) If the building or work or the continuance of the existing use is approved under this Clause, the Council shall not be entitled to serve a warning notice, and any such notice already served shall cease to have effect.

56. Notwithstanding the foregoing provisions of this Scheme, but subject to the provisions of Clause 58 (Power to prohibit alterations, etc., of existing and certain other buildings)—

Alterations
and
extensions
of existing
buildings

(a) an alteration of an existing building may be made, if the alteration, together with any previous alteration made to the building since the material date, does not involve the demolition of the building to the extent of more than one half of the superficial area of its main containing walls;

(b) an extension of an existing building, other than a building erected in pursuance of permission given by or under an interim development order, may be made and the building as extended may be used for any purpose of the same or similar character as that for which the existing building was used, or for any purpose which is in conformity with the provisions of this Scheme, if the Council or, on appeal, the Minister decides that the extension, with any previous extension made since the material date, does not measure in floor space more than one eighth of the existing floor space, within the main containing walls, and an equivalent extension of floor space could not conveniently be secured on the site of the building without contravening or by contravening in less degree the relevant provisions of this Scheme.

57.—(1) Notwithstanding the foregoing provisions of this Scheme, but subject to the provisions of the next succeeding Clause, where an existing building or a building which was standing within two years before the material date is destroyed or demolished, a new building having no greater cubic content above the level of the ground and, in addition, in the case of premises used for business or industry, no greater superficial area on the ground floor may be erected on the same site, if the building is commenced within two years after the destruction or demolition of the previous building or within such longer period as the Council may permit:

Replace-
ment of
existing and
certain
other build-
ings.

Provided that—

(i) if the Council or, on appeal, the Minister decides that a new building having a cubic content above the level of the ground not less than that proposed and, in the case of premises used for business or industry a superficial area on the ground floor not less than that proposed, could conveniently be erected in such a manner as not to contravene the relevant provisions of this Scheme or to contravene them in less degree than would be involved in the erection of the proposed building, then the erection of the proposed building shall not be permissible under this Clause;

(ii) it shall not be permissible under this Clause to erect any building on land on which the erection of buildings is prohibited or restricted under Sub-clauses (2) and (3) of Clause 30 (Erection and use of buildings) except as provided in Sub-clause (3); and

Clause 58. Power to prohibit alterations, etc., of existing and certain other buildings.

Where action is taken by the Responsible Authority under this Clause they will incur a liability to pay compensation. Apart, however, from cases in which the alteration, extension or replacement is one involving a serious departure from the provisions of the Scheme, there will be instances in which prohibition with payment of compensation will be less costly to the Authority than the payment of the larger compensation ultimately involved if the alteration, extension or replacement was carried out and the building had to be removed.

(iii) nothing in this Clause shall be construed as authorising the erection of a building otherwise than in conformity with the provisions of the byelaws and local Acts, but if it is impracticable to erect such a new building as aforesaid on the site of the previous building without infringing such byelaws or local Acts, the Council or, on appeal, the Minister may permit the building to be erected in whole or in part upon land adjoining that site.

(2) A new building erected under this Clause may be used for any purpose of the same or similar character as that for which the previous building was last used before its destruction or demolition, or for any purpose in conformity with the provisions of the Scheme.

For the purposes of this Clause a building shall be deemed to have been demolished, if it is demolished to the extent of more than one-half of the superficial area of its main containing walls.

58. A person who desires to alter, extend or replace an existing building or to replace a building which was standing within two years before the material date in such a manner that the alteration or extension of the building or erection of the new building, as the case may be, would, save for the provisions of this Part of the Scheme, be a contravention thereof, shall submit to the Council plans and particulars of the proposed works not less than one month before the works are commenced, and the Council may within that period serve him with a counter-notice of their decision to prohibit the proposed alteration, extension or new building, and upon the service of the said counter-notice the alteration or extension of the building or the erection of the new building, as the case may be, shall be a contravention of the Scheme:

Power to prohibit alterations, etc., of existing and certain other buildings.

Provided that, if the alteration or extension or new building is one which would have been permissible with the consent of the Council, had the original building been erected after the date when the Scheme comes into operation, the person upon whom the counter-notice has been served may appeal against the decision of the Council.

59. Notwithstanding anything contained in the foregoing provisions of this Part of the Scheme, the provisions of Clause 45 (External appearance of buildings) shall apply to the alteration, extension or replacement of an existing building, or the replacement of a building which was standing within two years before the material date, and in the case of an alteration to or extension of an existing building, Sub-clause (4) of that Clause shall be deemed to include the further ground of appeal that compliance with the Council's decision would involve an increase in the cost of building which would be unreasonable having regard to the character of the building to be altered or extended.

External appearance of alterations, etc.

60. Where an existing building or a building which was standing within two years before the material date is or was used, or, if not in use before the material date, was designed, for more than one purpose, the rights conferred by this Part of the Scheme to continue the use of the building (whether unaltered or as altered or extended), or to use a new building

Buildings used for more than one purpose.

Clause 61. Submission of plans.

This Clause and the next succeeding one are new to the 1937 edition of the Model. It is considered that it will be convenient for developers to find collected together what they are required to do if they need a consent or permission of the Responsible Authority under the Scheme, and what their rights are in the event of a refusal or delay. The Clause follows the model byelaws as closely as possible and it is anticipated that, as a general rule, the ordinary byelaw plans will be sufficient for the purposes of the Scheme—with the addition, in appropriate cases, of any neighbouring land in the applicant's control.

It is provided by Sub-clause (2) that, as in the interim development period, an application under the byelaws shall be deemed to be an application under the Scheme unless the Council inform the applicant that the particulars supplied are insufficient; only under the Scheme the Council are relieved of the obligation contained in the General Interim Development Order to inform him within seven days, since developers have every opportunity of finding out for themselves what is required under the Scheme.

which replaces it for a purpose of the same or a similar character, include a right to alter the proportion, measured in floor space, in which the several parts of the building are or were used or designed for use, provided that the use for a particular purpose is not increased by more than one-eighth of the floor space used for that purpose.

PART VII.

PLANS, APPROVALS, APPEALS.

61.—(1) An application for any consent, permission or approval of the Council under the provisions of this Scheme, shall be made in writing to the Council, and shall be accompanied by the following plans and particulars:—

Submission
of plans.

(a) if the application is for approval to the laying out or making of a new street, the plans and sections required by the byelaws and local Acts, showing the site of the proposed street in relation to other streets, together, where street works are to be executed, with specifications of the proposed works;

(b) if the application is for consent to the use of an existing or proposed building or to the use of land, a site plan sufficient to identify the land to which the application relates, together with particulars in writing of the purpose for which the building or land is to be used;

(c) if the application is for consent, permission or approval to the erection or siting of a building, the particulars required by the preceding paragraph (b) and in addition a plan (elsewhere in this Scheme referred to as an estate development plan) to a scale of not less than 25 inches to a mile showing—

(i) the land on which the building is to be erected, and so far as may be necessary to enable the Council to consider the application, any adjoining land belonging to the applicant;

(ii) any land unit affecting any of the land shown on the plan which has been declared by the Council under Clause 35 (Declaration of land units);

(iii) any separate building plots into which the land is or is intended to be divided;

(iv) the position of every proposed and of every existing building on the land shown in the plan;

(v) the lines and widths of every proposed and of every existing street on the land shown in the plan:

Provided that—

(i) where the development proposed is so extensive as to make a smaller scale necessary, the plan may with the consent of the Council be to a scale of not less than 6 inches to a mile; and

(ii) if the application referred to in this paragraph relates only to the extension or alteration of a building, it shall be sufficient to show on the plan the site of the building and the extension or alterations in relation to the building;

(d) if the Council have required the external appearance of the building to be subject to their approval under Clause 45 (External appearance of buildings) drawings of the external appearance of

Clause 62. Approvals and consents.

It is obviously convenient that the Authority's decision on the application under the byelaws, and their decision on the application under the Scheme, should be given simultaneously; and the provision for giving decisions within one month (except where the proposal has to be advertised) has been unanimously approved by the Town and Country Planning Advisory Committee. The position under an operative Scheme is very different from that in the interim development period (where the Authority have two months) since the main outlines of control are settled, and the issue before the Authority is correspondingly simpler.

the proposed building to a scale of not less than 1 inch to every 8 feet, together with a sufficient description of the materials to be used in the construction of the building :

Provided that where the building is so extensive as to render a smaller scale necessary the drawings may be to a scale of 1 inch to every 16 feet.

(2) An application to the Council for the approval of a plan under any byelaws, regulations, local or general Acts in force in the district shall, if the development shown on the plan requires the consent, permission or approval of the Council under this Scheme, be deemed to be an application for such consent, permission or approval, unless the application does not contain the information and particulars required by the preceding Sub-clause and the Council so inform the applicant on or before giving their decision under the byelaws, regulations, local or general Acts.

(3) Any plan or drawing submitted to the Council in accordance with this Clause shall be in duplicate, and shall be on suitable and durable material. The Council may retain one copy of every plan or drawing submitted to them, and any plans or drawings so retained which have been approved by the Council shall be available for inspection by any person interested at all reasonable times.

62.—(1) Where an application for the approval, permission or consent of the Council under the provisions of this Scheme has been made in accordance with the preceding Clause or an application for a decision of the Council has been made under any provision of the Scheme by which the Council are authorised to give a decision, the Council shall notify the applicant of their decision within one month from the deposit of the application, or within such longer period as the applicant may agree in writing to allow, except that:—

Approvals
and
consents.

(a) if by virtue of a byelaw made by the Council under Section 64 of the Public Health Act, 1936, " the prescribed period " in relation to the passing or rejection of plans under the building byelaws is five weeks in the case of plans deposited less than three clear days before a meeting of the Council, five weeks shall in the case aforesaid be substituted for one month under this Clause;

(b) if under the provisions of Sub-clause (2) of Clause 18 (Construction of streets by owners) or Sub-clause (2) of Clause 23 (Fixing of building line for existing street for which no building line is shown on Map) or Sub-clause (2) of Clause 46 (Siting of buildings) the Council have notified the person having control of any neighbouring land that development or the fixing of a building line is proposed, two months shall be substituted for one month;

(c) if the application is one to which the provisions of Clause 24 (Effect of building line) or Clause 32 (Advertisement and third party appeal in certain cases) or Sub-clause (4) of Clause 37 (Number of dwelling-houses which may be erected) or Clause 40 (Land units vested in more than one owner) applies, two months shall be substituted for one month.

(2) Where the Council refuse an application for approval, permission or consent, or approve it subject to modifications or conditions, they shall in notifying the applicant of their decision state the reason for the decision.

Clause 63. Appeals.

The Act contemplates that the Scheme should provide for an appeal either to a Court of Summary Jurisdiction or to the Minister. It is for the Local Authority in framing the scheme to decide whether the appeal under any particular clause should lie to a Court of Summary Jurisdiction or to the Minister.

The Clause has been filled in on the assumptions that the majority of appeals will lie to the Minister, as that appears to be the desire of most Local Authorities, and that the Private Street Works Act, 1892, under which appeals go to the Justices, is in force. The Minister is not prepared to take the appeals referred to in paragraph (1) as in his view these should always be referred to the Justices. If, however, Section 150 of the Public Health Act, 1875 is in force, appeals affecting street specifications and costs should be to the Minister and the reference to Sub-clause (7) of Clause 18 should be deleted.

Whatever provision may be made in the Scheme the prospective parties to an appeal to a Court of Summary Jurisdiction may under Section 40 of the Act refer the matter to the Minister, or to some other arbitrator to be agreed, or, in default of agreement, appointed by the Minister, and prospective parties to an appeal to the Minister may under the same provision refer the matter to some other arbitrator to be agreed, or, in default of agreement, appointed by the Minister.

63. Where provision is made in this Scheme for an Appeals.
 appeal from a decision of the Council, other than a decision under Clause 45 (External appearance of buildings), the following provisions shall have effect :—

(1) (a) Appeals for which provision is made by paragraph (a) (ii) and (b) of Sub-clause (7) of Clause 18 (Construction of streets by owners), Clause 27 (Prevention of obstruction to view at corners and bends), Clause 49 (Preservation of trees), Clause 52 (Advertisements) and Clause 53 (Provision of loading accommodation) shall be to a Court of Summary Jurisdiction for the petty sessional division or place within which the land or building to which the appeal relates is situated;

(b) in any other case the appeal shall be to the Minister whose decision shall be final.

(2) An appeal shall, in addition, lie against a refusal of the Council to give, or unreasonable delay on their part in giving, a decision and shall be made to the Court or the Minister as the case may be, as if it were an appeal against a decision of the Council.

(3) Written notice of appeal shall be given to the Clerk of the Court or to the Minister as the case may be and to the Council. If the appeal is against a decision of the Council, the notice shall be given within twenty-eight days from the date of the service on the appellant of the notice of the Council's decision.

For the purposes of this paragraph a notice given by the Council under Clause 27 (Prevention of obstruction to view at corners and bends) or a notice under Clause 54 (Power to prohibit maintenance or use of existing buildings and continuance of existing use of land) against which appeal may be made under Clause 55 (Existing buildings and uses of land for which approval may be sought) shall be deemed to be a decision of the Council.

(4) The Minister or the Court may on the application of any person desiring to appeal extend the time for making the appeal specified in the preceding paragraph (3), whether or not the time specified for making the appeal has expired.

(5) In the case of an appeal under Sub-clause (7) of Clause 18 (Construction of streets by owners) or Sub-clause (3) of Clause 19 (Communicating streets) the Council shall forthwith serve a copy of the notice of appeal on any person who may by virtue of Sub-clause (4) of Clause 19 (Communicating streets) be entitled to appear and be heard.

(6) The Court or the Minister, as the case may be, may affirm, vary or reverse the decision of the Council or, if the Council have refused or have unreasonably delayed to give a decision, may give any decision which it would have been competent to the Council to give.

(7) In the case of an appeal to the Court, the Court may order by whom and in what manner any costs incurred in connection with the appeal shall be paid, and any costs so ordered to be paid shall be recoverable summarily as a civil debt.

Clause 66. Application of Scheme to development uncompleted at commencement of Scheme.

Paragraph (b).—The permissions, of which particulars are to be entered in the Sixth Schedule, are those granted under an Interim Development Order for buildings or works which have not been begun or contracted for before the Scheme comes into operation, but which ought to be allowed to proceed, e.g., where an estate is half developed, or land has been disposed of on the strength of the permission.

PART VIII.—MISCELLANEOUS.

64.—(1) The Council may enter into agreements consistent with the provisions of this Scheme in relation to any matters with which a scheme may deal. Agreements.

(2) The several agreements of which particulars are set out in the Fifth Schedule to this Scheme shall, except in so far as they are made under powers conferred by Section 34 of the Act, be deemed to have been made by the Council under the powers conferred on them by this Clause, and a provision contained in any of the said agreements shall prevail, notwithstanding that it is inconsistent with the provisions of this Scheme.

(3) A person having the powers of a tenant for life, within the meaning of the Settled Land Act, 1925, may, with the consent of the persons who are trustees of the settlement for the purposes of that Act, enter into any agreement for the purpose of enabling the Scheme to be carried into effect, and this power shall be in addition to, and not in derogation of, any other powers of a person having the powers of a tenant for life.

65. For the purpose of facilitating such adjustment of the boundaries of estates and building plots as will secure the proper development of land the Council may agree with owners and occupiers of land for the exchange between those persons of portions of the lands, either with or without payment of money by way of equality of exchange, and may, if they think fit, themselves pay in whole or in part any money required to be paid by way of equality of exchange, and may pay in whole or in part the costs of the exchange. Adjustment
of
boundaries
of estates.

66. Nothing in this Scheme shall prevent—

(a) the erection of a building or the carrying out of works in accordance with the terms of any interim development order or of permission granted under such an order, if the erection of the building or the carrying out of the works has been commenced, but not completed, before the date on which this Scheme comes into operation or is undertaken under a contract made before that date; or Application
of Scheme
to develop-
ment
uncom-
pleted at
commence-
ment of
Scheme.

(b) the erection of any building or the carrying out of any works in accordance with any of the permissions of which particulars are set out in the Sixth Schedule to this Scheme or with any permission granted under any interim development order between the date on which the Council resolved to submit the Scheme to the Minister for approval and the date on which the Scheme comes into operation :

Provided that the Council may within two months after the coming into operation of the Scheme serve on the person intending to commence or continue the erection of a building or the carrying out of works which but for this Clause would be a contravention of this Scheme or would be permissible only with the consent of the Council a notice prohibiting the erection of the building or the carrying out of the works, and upon the service of such notice the erection of the building or the carrying out of the works shall be a contravention of the Scheme.

Clause 69. Disposal of Land.

A Local Authority have power under the Local Government Act, 1933, to sell or exchange land which is not required for the purpose for which it was acquired. This Clause is needed for the case where the purpose of the acquisition is to sell or dispose of the land, e.g. frontage land required for the purpose of controlling development.

Where the Scheme is constituting a Joint Body as Responsible Authority power to let land should be added to the Clause since the power in the Local Government Act is not available to Joint Bodies.

67. Any development which was undertaken in the Area between the material date and the date on which the Scheme comes into operation otherwise than in accordance with an interim development order or a permission granted under such an order and which does not conform with the provisions of this Scheme shall be a contravention of the Scheme.

Applica-
tion of
Scheme to
develop-
ment prior
to opera-
tion of
Scheme.

68. Where permission to undertake any building operations or other development or to use any buildings or land or to do any other act or thing has been granted under an interim development order, and conditions have been imposed, and are not inconsistent with the provisions of the Scheme, the conditions shall have effect as if they were conditions imposed under the Scheme and may be enforced accordingly.

Fulfilment
of
conditions.

69. Without prejudice to their powers with regard to the letting, sale or exchange of land under Sections 164 and 165 of the Local Government Act, 1933, the Council may, with the consent of the Minister, sell or exchange any land acquired by them under paragraphs (a) to (d) of Subsection (1) of Section 25 of the Act.

Disposal of
land.

70. Land belonging to the Council for the purposes of this Scheme (other than land reserved under Part II of the Scheme), and not required for any of those purposes, may be appropriated for any other purpose approved by the Minister for which the Council are authorised to acquire land and which is not inconsistent with the provisions of the Scheme.

Appropri-
ation of land.

71.—(1) Nothing in the provisions of this Scheme shall be construed as authorising the acquisition or appropriation of land forming part of a common, open space or allotment within the meaning of paragraph 4 of Part II of the Third Schedule to the Act, except—

Provisions
as to
commons,
open spaces
and allot-
ments.

(a) where land, not being less in area, certified by the Minister after consultation with the Minister of Agriculture and Fisheries to be equally advantageous to the persons, if any, entitled to commonable or other rights, and to the public, is given in exchange; or

(b) where such land is required for the widening of an existing highway and the Minister, after consultation with the Minister of Agriculture and Fisheries, declares that the giving in exchange of other land is unnecessary either in the interests of the persons, if any, entitled to commonable or other rights, or of the public.

(2) Land which forms part of any such common, open space or allotment as aforesaid and is acquired or appropriated under the provisions of this Scheme shall, by virtue of the acquisition or appropriation, be discharged from any rights, trusts and incidents to which it was previously subject, and any land given in exchange shall be vested in the persons in whom the common, open space or allotment was vested and shall be held subject to the same rights, trusts and incidents as attached to the land acquired or appropriated.

(3) The Council shall as soon as practicable undertake any works that may be necessary to put the surface of any land which is given in exchange for land forming part of any such common, open space or allotment as aforesaid in a state suitable for the exercise of the same rights as attached to the land acquired or appropriated.

Clause 75. Suspension of Byelaws, Local Acts, etc.

See the notes on pages 42 and 74 recommending the repeal of any byelaws made under the Petroleum Consolidation Act, 1928, or the Advertisement Regulation Acts.

The proviso relating to byelaws prescribing the space about buildings is inserted in order to make it clear that on this point the provisions of the Scheme are additional and not alternative to those of the byelaws. This is particularly important where the replacement of existing buildings is concerned, since the Scheme requirements can be enforced against them only at risk of a claim to compensation.

72.—(1) Any officer of the Council who is duly authorised by the Council (in this Clause referred to as “the authorised officer”) may, after giving not less than forty-eight hours’ notice to the person having custody of any premises within the Area and on production of his authority, if required, enter the premises at any time between the hours of nine in the forenoon and six in the afternoon for the purpose of any inspection necessary for enforcing and carrying into effect any provision of this Scheme or the Act.

Entry on
land for
inspection.

(2) Any authorised officer to whom admission is refused may apply to a Justice after giving to the person having custody of the premises reasonable notice of intention to make the application and the Justice may by Order under his hand require that person to admit the authorised officer into the premises during the hours aforesaid.

(3) If no person having such custody can be found, the Justice shall, on oath made before him of that fact, by Order under his hand authorise any authorised officer to enter into or upon the property during the hours aforesaid. Any such Order made by a Justice shall continue in force until the purposes for which admittance was required have been fulfilled or executed.

73.—(1) Any person who contravenes any of the provisions of this Scheme, or who fails to comply with any of those provisions, shall be guilty of an offence, and shall be liable on conviction in a Court of Summary Jurisdiction for the petty sessional division or other place in which the offence is committed to a penalty not exceeding Forty Shillings for each offence, or in the case of an offence under Clause 49 (Preservation of trees) to a penalty not exceeding Fifty Pounds for each offence, and in the case of a continuing offence he shall be liable to a further penalty not exceeding Twenty Shillings for each day during which the offence continues after conviction therefor:

Penalties.

Provided that a person shall not be punished for the same offence both under this Clause and under any other law or enactment.

(2) No proceedings shall be taken under this Clause, if action can be taken in respect of the same matter under the provisions of Section 13 of the Act, but, except as aforesaid, proceedings may be taken under this Clause in addition to any other proceedings or remedy.

74. The provisions of Section 32 of the Act with respect to the application by a Responsible Authority of sums received by way of betterment or as proceeds of sale of any land purchased under powers conferred by the Act shall apply to all sums, being capital or in the nature of capital, received or recovered by the Council under this Scheme.

Applica-
tion of
money
received by
Council.

75.—(1) The operation of—

(a) any byelaws, orders or regulations which are in force in the Area; and

(b) such of the enactments contained in local Acts in force in the Area as might, by virtue of any Act of Parliament, have been made in relation to the Area by means of a byelaw, order or regulation not requiring confirmation by Parliament,

Suspension
of byelaws,
local Acts,
etc.

is hereby suspended, so far as the said byelaws, orders, regulations or enactments are similar to, or inconsistent with, any of the provisions of this Scheme:

Clause 76. Register of permissions and conditions.

If Alternative Clause 4 (No. 1, Appendix II) is to be inserted in the Scheme in lieu of Clause 4 in the main body, a reference to "any Council who are a Responsible Authority" should be substituted for "them" in line 4 and the following paragraph added to the end:--

The County Council shall for this purpose supply the Borough [District] Council with the necessary particulars of any approval, consent, authority or permission granted by them or on appeal from their decision, and of any conditions imposed or agreed between them and any applicant in connection therewith.

Provided that nothing in this Sub-clause shall be construed as authorising the suspension of any byelaws or enactments prescribing space about buildings.

(2) The operation of Sections 33 and 34 of the Public Health Act, 1925, in relation to streets or parts of streets for the widening of which land is reserved in Part I or Part II of the Table in Clause 5 (Reservation of lands), and of Section 5 of the Roads Improvement Act, 1925, in relation to streets or proposed streets or parts thereof upon which a building line is shown on the Map by a *broken red line* or is fixed under Clause 22 (Fixing of building line for new street not shown on Map), Clause 23 (Fixing of building line for existing street for which no building line is shown on Map) or Clause 25 (Modification of building line where standard width is adopted under the Restriction of Ribbon Development Act, 1935) is hereby suspended, in so far as those enactments are similar to, or inconsistent with, any of the provisions of this Scheme.

76. The Borough [District] Council shall keep, so as to be available for inspection at all reasonable times by any person interested, a register of approvals, consents, authorities or permissions granted by them or on appeal from their decision under any provision of this Scheme, and of any conditions imposed or agreed between the Council and the applicant in connection therewith.

Register of
permissions
and
conditions.

77. In the case of a claim made under paragraph (a) of Sub-section (1) of Section 18 or Sub-section (1) of Section 21 of the Act in respect of injurious affection or increase in value of property due to the exercise by the Council of a power contained in one of the undermentioned Clauses of this Scheme:—

Extension
of time for
claiming
compensa-
tion or
better
ment.

Sub-clauses (1) and (2) of Clause 14 (Land adjoining sites of streets);

Clause 18 (Construction of streets by owners);

Clause 19 (Communicating streets);

Clause 21 (Diversion or stopping up of highways);

Sub-clause (1) of Clause 22 (Fixing of building line for new street not shown on Map);

Clause 23 (Fixing of building line for existing street for which no building line is shown on Map);

Sub-clause (3) of Clause 25 (Modification of building lines where a standard width is adopted under the Restriction of Ribbon Development Act, 1935);

Clause 46 (Siting of buildings);

Sub-clause (1) of Clause 49 (Preservation of trees);

Clause 58 (Power to prohibit alterations, etc., of existing and certain other buildings);

The proviso to Clause 66 (Application of Scheme to development uncompleted at commencement of Scheme),

the period within which the claim may be made shall be:—

(a) in the case of the diversion or stopping-up of a highway or any portion thereof, a period of twelve months from the date on which the diversion or stopping-up takes place;

(b) in the case of entry on land by the Council under the powers conferred on them by Clause 14 (Land adjoining sites of streets), a period of twelve months from the date of entry; and

Clause 78. Exclusion of claims for compensation.

The terms of Section 19 of the Act should be carefully considered when this Clause is being prepared.

(c) in any other case, but subject in cases falling under Sub-clause (1) of Clause 22 (Fixing of building line for new street not shown on Map), Clause 23 (Fixing of building line for existing street for which no building line is shown on Map) and Sub-clause (3) of Clause 25 (Modification of building lines where a standard width is adopted under the Restriction of Ribbon Development Act, 1935) to the provisions of Sub-section (3) of Section 22 of the Act, a period of twelve months from the date on which the Council notify the claimant or the person against whom the claim is made, as the case may be, of the exercise by them of the power or, if an appeal lies and has been made against the exercise of the power, a period of twelve months from the date of the decision on the appeal.

78. No compensation shall be payable under paragraph (a) of Sub-section (1) of Section 18 of the Act in respect of the injurious affection of property by the coming into operation of any of the undermentioned provisions of this Scheme :—

Exclusion
of claims
for com-
pensation.

Clause 16 (Number and sites of new streets to enter classified roads) except in relation to the following lands, namely

Sub-clause (1) of Clause 24 (Effect of building line), in its application to land which at no time within the period of five years immediately preceding the material date was or formed part of the site of a building, except as applied to

Clause 27 (Prevention of obstruction to view at corners and bends);

Part IV (Building Restrictions and Use of Land) except Clause 46 (Siting of buildings);

Clause 53 (Provision of loading accommodation).

79.—(1) A person who has paid any sum required to be paid under Section 21 of the Act in respect of betterment, or has advanced money for that purpose, may apply to the Council for a Charging Order, and on production of the receipt for the sum so paid the Council shall make an order charging on the land an annuity to repay the amount.

Charging
Orders.

(2) The annuity charged shall be such annual sum as will repay the said amount by equal instalments of principal and interest combined in a period of thirty years, interest being calculated at the same rate as that which, at the date when the charge is made, is the rate of interest fixed by the Treasury for the purposes of Sub-section (6) of Section 21 of the Act, and shall commence from the date of the order, and be payable to the person named in such order, his executors, administrators or assigns.

(3) A charge made under this Clause shall be a land charge within the meaning of the Land Charges Act, 1925, as amended by any subsequent enactment, and may be registered accordingly.

(4) The provisions of Section 21 of the Housing Act, 1936, as amended by any subsequent enactment, shall apply to charges created under this Clause.

Clause 80. Maintenance of registers and supply of copies of notices.

Alternative Clauses 80 and 81 (Nos. 5 and 6, Appendix II) in regard to registers and to the inspection of the Scheme should be substituted for this Clause and Clause 81 where a Scheme extends to two or more boroughs or districts.

Clause 81. Inspection of Scheme.

See note to Clause 80.

(5) Charging Orders and transfers of charges may be made under this Clause according to the forms A and B in the Seventh Schedule to this Scheme or in any other convenient form.

80.—(1) The Borough [District] Council shall be responsible for the maintenance of the register of owners and associations compiled under Sub-section (4) of Section 7 of the Act (hereafter referred to as “the register”).

Maintenance of registers and supply of copies of notices.

(2) The Borough [District] Council shall, on application in writing being made to them, grant facilities for the inspection of the register by the County Council, or by any joint committee, or authority making, preparing or adopting a scheme, varying scheme, supplementary scheme, supplementary order or general development order, in respect of land in the Borough [District] and for making copies of any entries in the register in respect of the said land.

(3) Where in pursuance of any provision of this Scheme notice by advertisement in a newspaper is given by the Council of anything done or proposed to be done, or any action taken or proposed to be taken under the Scheme, the provisions of Sub-section (7) of Section 7 of the Act shall apply so as to require the service by the Council of a copy of the notice on every person whose name and address appear in the register in respect of any property affected by the matter of which notice is given and on every association whose name and address appear in the register.

81. The Borough [District] Council shall permit any person to inspect at any reasonable time the Scheme, the duplicate of the Map deposited in the offices of the Borough [District] Council, the agreements of which particulars are set out in the Fifth Schedule to this Scheme, the permissions of which particulars are set out in the Sixth Schedule to this Scheme, and any consents given by statutory undertakers under Section 41 of the Act.

Inspection of Scheme.

82. A notice or other document which the Council are required or authorised to serve under this Scheme may be served :—

Service of notices.

(a) in the case of a person or association whose name and address are registered under Sub-section (6) of Section 7 of the Act, by delivering it or sending it by prepaid post at or to the address so registered; and

(b) in any other case—

(i) by delivering it at the residence of the person on whom it is to be served or sending it by prepaid post addressed to that person at his residence; or

(ii) if the notice or document is to be served on an incorporated company or body, by delivering it to the secretary or clerk of the company or body at their registered or principal office, or sending it by prepaid post addressed to the secretary or clerk of the company at that office; or

(iii) if the Council are unable after reasonable inquiry to ascertain the name or address of the person upon whom it should be served, by addressing it to him by the description of “owner” or “occupier” of the premises (naming them) to

Clause 85. Saving for Crown Lands.

It is not necessary to ascertain whether or not there are Crown Lands in the Area. The Clause shall be inserted even if there are no such lands at the time of the preparation of the Scheme.

Clause 86. Saving for agricultural buildings.

See Section 12 (3) of the Act.

Clause 89. Supplementary Orders.

See Section 14 of the Act.

87. Nothing in Part IV or Part V of this Scheme shall be construed as prohibiting or controlling, or enabling the Council to prohibit or control, the erection or use of structures for the purpose of advertising, save as provided by Clause 52 (Advertisements). Saving for advertisements.

88.—(1) Notwithstanding the stopping up or diversion of any highway or footpath or any portion thereof under this Scheme, the Postmaster-General shall continue to have the same powers and rights in regard to any telegraphic line which remains in, under, upon, over, along or across the site of the said highway or footpath as if the same had continued to be a highway or footpath, as the case may be : For the protection of the Postmaster-General.

Provided that, if the Council or the person in whom the soil of the said highway or footpath is vested desires to alter such telegraphic line, the enactments of Section 7 of the Telegraph Act, 1878, shall thereupon apply in all respects as though the Council or the said person, as the case may be, were undertakers within the meaning of that Act.

(2) Expressions in this Clause have the same meaning as in the Telegraph Act, 1878.

89. The Borough [District] Council or the County Council may make supplementary orders or adopt, with or without modifications, supplementary orders proposed by owners of land, in accordance with the provisions of the Regulations, for supplementing the provisions of this Scheme as respects any part of the Area, by adding to it provisions with respect to any matters for which provision may be made by a scheme and for varying it in so far as may be necessary or expedient. Supplementary orders.

First Schedule.

The types of streets set out in this Table are suggested as generally suitable but will not be universally appropriate.

Local Authorities are reminded that the Schedule sets out permissible relaxation of the byelaws and that repetition of the byelaws is not required.

The minimum width referred to in column 8 should normally be the greatest width contemplated for a street by the byelaws in force in the Area.

Clause 18 (3) makes provision for exceptional cases.

FIRST SCHEDULE. (Clause 18.)

TYPE.	DIMENSIONS.					Construction of Surface.	CONDITIONS.		
	Maximum Length of Street.	Minimum Width of Street.	Minimum Width of Carriageway.	Minimum Number of Footways.	Minimum Width of each Footway.		Junction with other Streets.	Turning Spaces.	Other.
1.	2.	3.	4.	5.	6.	7.	8.	9.	10.
A.	—	36 ft.	20 ft.	2 (1 if street built up to on one side only).	6 ft.	Any portion of the surface of the street not constructed as carriageway or footway shall be treated in a suitable manner, according to the reasonable requirements of the Council, whether by planting with grass, trees or shrubs or otherwise.	The street shall communicate at each end with a street of a minimum width of feet having a carriageway of a minimum width of feet or with a highway having a carriageway existing at the date of the coming into operation of this Scheme, or at one end with such a street or highway and at the other end with a street of Type F, but, where the street communicates at one end with a street of Type F, its length together with the length of the street of Type F shall not exceed 1,100 feet. The street may also communicate at one end with a street of Type A and at the other end with a street of Type F, if the length of the street together with the length of the street of Type F does not exceed 900 feet.	If the street exceeds 500 feet in length a turning space (or turning spaces) shall be provided at a distance not exceeding 500 feet apart or from either end of the street. The turning-space shall be of such dimension that a circle with a diameter of 30 feet could be inscribed within the carriageway, and the corners at any junctions of the turning space with the carriageway of the street shall be rounded off so as to be coincident with the arc of a circle tangential to the adjacent boundaries of the street and the turning space and having a radius of not less than 15 feet.	No buildings other than dwelling-houses or such other buildings as the Council may approve shall be erected in the street.
B.	1,500 ft.	36 ft.	16 ft.	Ditto	4 ft. 6 in.	Ditto	The street shall communicate at each end with a street of a minimum width of feet having a carriageway of a minimum width of feet or with a highway having a carriageway existing at the date of the coming into operation of this Scheme, or at one end with such a street or highway and at the other end with a street of Type F, but where the street communicates at one end with a street of Type F its length, together with the length of the street of Type F, shall not exceed 1,100 feet. The street may also communicate at one end with a street of Type A and at the other end with a street of Type F, if the length of the street together with the length of the street of Type F does not exceed 900 feet, or at one end with a street of Type B and at the other end with a street of Type F, if the length of the street together with the length of the street of Type F does not exceed 750 feet.	Ditto	Ditto
C.	750 ft.	30 ft.	16 ft.	1	4 ft. 6 in.	Ditto	The street shall communicate at each end with a street of Type A or B or with a street of a minimum width of feet having a carriageway of a minimum width of feet; or with a highway having a carriageway existing at the date of the coming into operation of this Scheme, or at one end with such a street or highway and at the other end with a street of Type F, but where the street communicates at one end with a street of a minimum width of feet having a carriageway of a minimum width of feet, or a highway having a carriageway existing at the date of the coming into operation of the Scheme, and at the other end with a street of Type F, its length together with the length of the street of Type F shall not exceed 1,100 feet, and where the street communicates at one end with a street of Type A and at the other end with a street of Type F, its length together with the length of the street of Type F shall not exceed 900 ft., and where the street communicates at one end with a street of Type B and at the other end with a street of Type F, its length together with the length of the street of Type F shall not exceed 750 feet.	Ditto	Ditto
D.	450 ft. (600 ft. if the minimum width of the carriageway is 16 ft.)	24 ft.	14 ft.	—	—	Ditto	The street shall communicate at one end with a street of Type A or B or with a street of a minimum width of feet having a carriageway of a minimum width of feet or with a highway having a carriageway existing at the date of the coming into operation of this Scheme, and shall communicate with no other street other than a street not intended for use as a carriageway.	A turning space shall be constructed at the other end of the street. The turning space shall have a total area of not less than 202 square yards, including not less than 128 square yards of carriageway, and shall be arranged to the satisfaction of the Council, and the corners at any junction of the carriageway in the turning space with the carriageway of the street shall be rounded off so as to be coincident with the arc of a circle tangential to the adjacent boundaries of the two carriageways and having a radius of not less than 15 feet.	Ditto
E.	200 ft.	16 ft.	8 ft.	—	—	Ditto	The street shall communicate at one end with a street of Type A, B or C or with a street of a minimum width of feet having a carriageway of a minimum width of feet or with a highway having a carriageway existing at the date of the coming into operation of this Scheme, and shall communicate with no other street other than a street not intended for use as a carriageway.	Ditto	Ditto
F.	500 ft. Applicable only to streets intended to give access solely to buildings forming three sides of a quadrangle or arranged in some other similar manner so as to front on to an open space.	14 ft.	10 ft.	—	—	The surface of the carriageway may be so constructed as to fall to a channel at one side of the carriageway, such fall being calculated at a minimum rate of one-quarter of an inch for every foot of the width of the carriage way. Any portion of the surface of the street not constructed as carriageway or footway shall be treated in a suitable manner, according to the reasonable requirements of the Council, whether by planting with grass, trees or shrubs or otherwise.	The street shall communicate at each end with a street of Type A, B or C or with a street of a minimum width of feet, having a carriageway of a minimum width of feet, or with a highway having a carriageway existing at the date of the coming into operation of this Scheme and shall communicate with no other street other than a street not intended for use as a carriageway.	—	Ditto All the buildings to which the street gives access shall be on the same side of the street.
G.	Applicable only to streets intended for use as service roads.	25 ft.	16 ft.	1	5 ft.	Ditto	The street shall communicate at each end with a street of dimensions not less than those prescribed for Type C in this Schedule, or with a highway having a carriageway existing at the date of the coming into operation of this Scheme, and shall communicate with no other street except— (i) streets not intended for use as carriageway; (ii) streets with a carriageway not less than 16 feet connecting the service road, at such intervals as the Council may approve, with the street on which it abuts.	—	All the buildings to which the street gives access shall be on the same side of the street and access to the street or highway on which the street abuts shall be provided with footways at intervals according to the reasonable requirements of the Council. The street shall not without the consent of the Council be used as a principal means of approach to any buildings.
H.	Applicable only to streets not intended for use as carriageways.	4 ft. 6 in.	—	—	—	—	—	—	—

Third Schedule. Special Industrial Buildings.

The list does not purport to be exhaustive of all the industries which might be included in the definition of Special Industrial Building.

Mention in that list does not imply that the industry concerned is necessarily injurious to the amenity of any zone in which its establishment is not either prohibited or generally permitted by the Scheme. The Responsible Authority should be careful in deciding whether to grant or refuse consent to its establishment in other use zones, and to give full weight to the manner in which the process is to be conducted, any special features and any precautions proposed to avoid nuisance.

As regards the trades marked with an asterisk see the note on page 46.

Any trades or businesses which have been declared in the district to be offensive under Section 51 of the Public Health Acts Amendment Act, 1907, should be included among those enumerated in (iii) of the Schedule.

SECOND SCHEDULE.

(Clause 21.)

Number on the Map of highway to be diverted or stopped up.	Number on the Map of new Street.
1.	2.

THIRD SCHEDULE.

(Clause 28.)

SPECIAL INDUSTRIAL BUILDINGS.

(i) Any building designed for use as a work which is registrable under the Alkali, Etc., Works Regulation Act, 1906, or any statute amending or repealing that Act.

(ii) Any building designed for use as or for one or more of the following works or processes in so far as any such work or process is not registrable under the Alkali, Etc., Works Regulation Act, 1906, or any statute amending or repealing that Act, viz. :—

Brick kilns, lime kilns, coke ovens, salt glazing works, sintering of sulphur bearing materials.

Smelting of ores and minerals, calcining, puddling and rolling of iron and other metals, conversion of pig iron into wrought iron, re-heating, annealing, hardening, forging, converting and carburising iron and other metals.

Works for the production of, or which employ, cellulose lacqueurs, cyanogen or its compounds, hot pitch or bitumen, pulverised fuel, pyridine, liquid or gaseous sulphur dioxide, sulphur chlorides.

Works for the production of amyl acetate, aromatic esters, butyric acid, caramel, enamelled wire, glass, hexamine, iodoform, lampblack, B-naphthol, resin products other than synthetic resin powders, salicylic acid, sulphonated organic compounds, ultramarine, zinc chloride, zinc oxide.

(iii) Any building designed for the purpose of carrying on any of the following industries, businesses or trades, viz. :—

Animal charcoal manufacturer.	*Fish frier.
Blood albumen maker.	Fish oil manufacturer.
Blood boiler.	Fish skin dresser.
Blood drier.	Glue maker.
Bone boiler or steamer.	Gut scraper or gut cleaner.
Bone burner.	Leather dresser.
Bone grinder.	Maker of meal for feeding
Candle maker.	poultry, dogs, cattle, or other
Chitterling boiler (not carried on	animals from any fish, blood,
as subsidiary to a retail trade	bone, fat or animal offal,
or business).	either in an offensive condi-
Dealer in blood, skins, hides, or	tion or subjected to any pro-
butchers' waste.	cess causing noxious or in-
Dealer in rags and/or bones	jurious effluvia.
(including receiving, storing,	Manufacturer of manure from
sorting or manipulating rags	fish, fish offal, blood or other
in or likely to become in an	putrescible animal matter.
offensive condition, or any	Parchment maker.
bones, rabbit skins, fat or	Size maker.
putrescible animal products	Skin drier.
of a like nature).	Soap boiler.
Fat melter or fat extractor.	Tallow melter.
Fellmonger.	Tanner.
Fish curer (not carried on by	*Tripe boiler.
a fishmonger as subsidiary to	
his trade or business as a fish-	
monger).	

FOURTH SCHEDULE.

(Clause 45.)

CONSTITUTION AND PROCEDURE OF TRIBUNAL OF
APPEAL.

PART I.

Constitution.

1. The Tribunal shall consist of three persons of whom—

One shall be a Fellow of the Royal Institute of British Architects and shall be appointed by the Council on the nomination of the President of the Institute;

One shall be a Fellow of the Chartered Surveyors' Institution and shall be appointed by the Council on the nomination of the President of the Institution;

One shall be a Justice of the Peace and shall be appointed by the Council.

2. A member of the Council shall be disqualified from being a member of the Tribunal.

3. The term of office of members of the Tribunal shall be three years, but a member shall be eligible for reappointment.

4. If a casual vacancy occurs in the membership of the Tribunal, the Council shall appoint a person to fill the vacancy having the same qualifications as the member by whose death or retirement the vacancy was caused and the appointment shall be made in the same manner as the original appointment.

5. A person appointed to fill a casual vacancy shall hold office during the remainder of the term of office of the member in whose place he was appointed.

6. The Council shall appoint one of the members of the Tribunal to be Chairman.

7. The Council may pay the members of the Tribunal such reasonable fees and expenses as may be agreed.

PART II.

Procedure with respect to Appeals.

1. A building owner who desires to appeal shall give notice in writing to the Clerk of the Council and shall furnish with the notice a statement of his grounds of appeal.

2. The Clerk shall forthwith transmit the notice and statement to the Chairman of the Tribunal.

3. Unless the Tribunal are of opinion that the appeal can properly be determined without a hearing, they shall afford the building owner and the Council an opportunity of appearing before them.

4. Any question to be decided by the Tribunal may be decided by a majority of votes.

5. The Tribunal shall give their decision in writing and shall forthwith send it to the Council and a copy thereof to the appellant.

FIFTH SCHEDULE.

(Clause 64.)

Date of Agreement.	Parties.	Description of land to which agreement relates.
1.	2.	3.

1. The Tribunal shall be composed of three members.

2. The members shall be appointed by the Council of the League of Nations.

3. The members shall be appointed for a term of five years.

4. The members shall be appointed by the Council of the League of Nations, and shall be subject to re-election.

5. The members shall be appointed by the Council of the League of Nations, and shall be subject to re-election.

6. The members shall be appointed by the Council of the League of Nations, and shall be subject to re-election.

7. The members shall be appointed by the Council of the League of Nations, and shall be subject to re-election.

SIXTH SCHEDULE.

(Clause 66.)

Date of Permission. 1.	Description of land to which permission relates. 2.

SEVENTH SCHEDULE.

(Clause 79.)

FORM A.**CHARGING ORDER.**

The.....being the Responsible Authority under the.....Planning Scheme, 19 , made under the Town and Country Planning Act, 1932, hereby charge the land and premises mentioned in the Schedule hereto with the payment toof..... of the sum of..... pounds payable yearly (half yearly) on the.....day of.....for the term of.....years, and being in consideration of a payment of..... pounds made byunder Section 21 of the said Act.

Schedule of Land Charged.

Description of land.	Owner.	Occupier.	Parish.	County.	Total acreage.
1.	2.	3.	4.	5.	6.

Given under the Common Seal of the above-named Authority thisday of.....19 .

FORM B.

Form of Assignment of Charge. To be endorsed on Charging Order.

I, the within named.....in pursuance of the Town and Country Planning Act, 1932, and of the consideration ofpounds, this day paid to me, hereby assign tothe within-mentioned charge.

Signed.....

Witnessed by

Date.....

APPENDIX I.

Definitions in Section 53 of the Town and Country Planning Act, 1932.

"*Buildings*" includes structures and erections;

"*Building operations*" includes any road works preliminary, or incidental, to the erection of buildings;

"*Classified road*" means a road classified by the Minister of Transport under the Ministry of Transport Act, 1919, in Class 1 or Class 2, or in any class declared by him to be not inferior to those classes for the purposes of the Local Government Act, 1929;

"*Development*" in relation to any land includes any building operations or rebuilding operations, and any use of the land or any building thereon for a purpose which is different from the purpose for which the land or building was last being used:

Provided that—

(i) the use of land for the purpose of agriculture, whether as arable, meadow, pasture ground or orchard, or for the purposes of a plantation or a wood, or for the growth of saleable underwood, and the use for any of those purposes of any building occupied together with land so used, shall not be deemed to be a development of that land or building; and

(ii) the use of land within the curtilage of a dwelling-house for any fresh purpose other than building operations shall not be deemed to be a development of that land if the purpose is incidental to the enjoyment of the dwelling-house as such;

"*Fence*" and "*hedge*" have respectively the same meanings as in the Roads Improvement Act, 1925;

"*Land*" includes land covered with water and any right in or over land;

"*Minerals*" includes all minerals and substances in or under land of a kind ordinarily worked for removal by underground or by surface working;

"*Owner*" in relation to any land means a person, other than a mortgagee not in possession, who is for the time being entitled to dispose of the fee simple of the land, or of any term of years therein granted or agreed to be granted by a lease or agreement the unexpired term whereof exceeds three years;

"*Road*" includes a drift-way and a footway;

"*Statutory undertakers*" means any person authorised by or under an Act of Parliament, or an order having the force of an Act of Parliament, to construct, work, or carry on any railway, canal, inland navigation, dock, harbour, tramway, gas, electricity, water, or other public undertaking;

"*Site*" in relation to a building includes the area of any offices, outbuildings, yard, court or garden occupied or intended to be occupied therewith;

"*Existing building*" and "*existing work*" mean respectively a building or work erected, constructed or carried out before the material date, and include also a building or work—

(i) erected, constructed or carried out in pursuance of a contract made before the material date; or

(ii) begun before, but completed after, that date; or

(iii) erected, constructed or carried out in accordance with the terms of an interim development order, whether made under this Act or any Act repealed by this Act, or of permission granted under such an order:

Provided that—

(a) a building erected or constructed in substitution for a previous building in accordance with the provisions of the scheme relating to substituted buildings shall be deemed to be an existing building; and

(b) a building shall not cease to be, or to be deemed to be, an existing building by reason of its alteration or extension in accordance with the provisions of the scheme relating to the alteration or extension of existing buildings, and any such alteration or extension shall itself be deemed to be part of the existing building;

"*Existing use*" means, in relation to any building or land, a use of that building or land for any purpose of the same or a similar character to that for which it was last used before the material date, or, in the case of a newly erected building which has not been used before that date, a use for any purpose for which it was designed, and includes

in any case any use of a building or land permitted by or under an interim development order, whether made under this Act or any Act repealed by this Act:

Provided that—

(i) if at any time after the material date the existing use of a building is discontinued for a period of eighteen months, no use of that building at any subsequent date shall be deemed to be an existing use thereof;

(ii) where at the material date a person who was using any land for the purpose of mining, quarrying, the digging of clay, gravel or sand, or the deposit of waste materials or refuse, or any other purpose of a similar nature, was entitled also to use neighbouring land for any such purpose, the user under that title of that neighbouring land for any such purpose, whether before or after the material date, shall be deemed to be an existing use.

Alternative Clause 4. (Responsible Authorities.)

Sub-clause (2).—These powers will be exercised concurrently with the powers under the byelaws with respect to new streets and therefore should be delegated in all cases. As regards the agency arrangements see the note on Clause 4.

If it is desired to delegate further powers to the Borough or District Council after the Scheme comes into operation, this can be done under Section 274 of the Local Government Act, 1933.

Sub-clause (4) is inserted to promote co-operation between the County Council and the Borough or District Council in regard to estate development and claims for compensation and betterment. For example, a developer may be willing to give up land for the widening of a county road as part of an agreement relating generally to the layout of the estate behind the road.

In the application of the Clause to a rural district the amendments set out in the note on page 8 should be made.

APPENDIX II.

Alternative and Supplementary Clauses.

1. Alternative Clause 4 (Responsible Authorities).

Responsible
Authorities.

4.—(1) The County Council shall be the authority responsible for enforcing and carrying into effect the provisions of the Scheme in relation to—

- (a) roads chargeable to the county and building lines thereon;
- (b) the site and levels of the approaches of a new street not chargeable to the county to a road chargeable thereto;
- (c) the imposition under Clause 27 (Prevention of obstructions to view at corners and bends) of restrictions in regard to the height and position of proposed fences or other obstructions to view at the junction of a road or proposed road with a road chargeable to the county.

(2) The powers and duties of the County Council in relation to roads chargeable to the county in the following Clauses, namely—

- Clause 18 (Construction of streets by owners);
- Clause 19 (Communicating streets);
- Clause 20 (Notice of commencement and completion of streets),

shall be deemed to have been delegated by the County Council to the Borough [District] Council subject to such conditions as have been agreed between the two Councils or to such other conditions as may from time to time be agreed between them or in default of agreement as the Minister may on the application of either Council determine.

(3) The Borough [District] Council in discharging the powers and duties delegated to them under this Clause shall act as agents for the County Council, and a person entering into any transaction with the Borough [District] Council in relation to any of those powers or duties shall not be bound to enquire whether the Borough [District] Council have authority to enter into the transaction on behalf of the County Council.

(4) Save as aforesaid the Borough [District] Council shall be the authority responsible for enforcing and carrying into effect the provisions of the Scheme subject to the following restrictions—

(a) With a view to facilitating development or the negotiation of a claim for compensation or betterment the County Council may join with the Borough [District] Council in entering into an agreement with any person with regard to matters in respect of which the Borough [District] Council are the Responsible Authority, and if the agreement contains any provision relating to the exercise by the Borough [District] Council of their powers under Clause 18 (Construction of streets by owners), Clause 19 (Communicating streets) or Clause 22 (Fixing of building line for new street not shown on Map) and it appears to the County Council that the manner in which those powers are exercised is likely to affect the rights or liabilities of the County Council in connection with a claim for compensation or betterment, the Borough [District] Council shall not refuse unreasonably to join in the agreement.

(b) Any question whether or not the Borough [District] Council have unreasonably refused to join in an agreement shall be decided by the Minister, and if the Minister decides that the refusal was unreasonable the agreement shall, as soon as it is executed by the County Council, become binding upon the Borough [District] Council as though they had been joined as a party thereto.

(5) The provisions of Section 33 of the Local Government Act, 1929, relating to the repayment by County Councils to District Councils of the expenses of the improvement of roads the maintenance and improvement of which have been claimed by District Councils under that Act shall extend to expenses incurred by the Borough [District] Council under this Scheme or the Act in respect of the widening of, and the fixing of building lines on, any road the maintenance and improvement of which have been so claimed.

(6) The expression "road chargeable to the county" means—

(a) any road for the time being vested in the County Council under the Local Government Act, 1929, or any enactment amending that Act; and

(b) any street or proposed street on land reserved for streets and numbered on the Map.

Supplementary Clause 7A. (Acquisition of land for cemeteries.)

See the note on Clause 5.

Amendments to be made where it is decided to include special provisions as to underground working of minerals.

See the note on Clause 6 (3).

Where these amendments are included, provision can be made, if desired, for increasing the distance prescribed in Section 78 of the Railways Clauses Act, and for specifying the dimensions of airways, etc., for the purpose of Section 80 of the Act as applied.

2. Supplementary Clause 7A. (Acquisition of land for cemeteries.)

7A. Land reserved in the foregoing Table for cemeteries may be purchased by the Council, whether by agreement or compulsorily, under and in accordance with the provisions of Section 25 of the Act, and the Council shall have the like powers and duties in regard to any land so reserved, when acquired by them, as if the land had been acquired under the Public Health (Interments) Act, 1879.

Acquisition
of land for
cemeteries.

3. Amendments to be made where it is decided to include special provisions as to underground working of minerals.

Clause 2. (Part I—Interpretation.) Add (after the definition of “the Act”)—

“The Railways Clauses Act” means the Railways Clauses Consolidation Act, 1845, as originally enacted.

Clause 6 (6). (Buildings, etc., not to be erected on reserved land.) Add—

“or any excavation made in connection with the winning of minerals by underground working.”

Clause 6A. Add new Clause as follows—

6A. With respect to minerals lying under or near any land reserved for streets by Clause 5 (Reservation of lands), or under any street constructed on land so reserved, Sections 78 to 85 of the Railways Clauses Act are incorporated in this Scheme with the following modifications:—

Special
provisions
as to
under-
ground
minerals.

(i) The said Sections shall be construed as if the expression “The Company” referred to the Council, the expression “railway” referred to land reserved for streets by the Scheme or a street constructed on land so reserved, the expression “the special Act” referred to this Scheme, and the word “prescribed” meant prescribed by the Scheme.

(ii) The Council, by or with any notice under the said Sections of willingness to treat for or make compensation or of intention to prevent or interfere with the working of any mines, may specify and define the nature and extent of the support which they require to be left.

(iii) Any reference to compensation or the payment of the amount of losses or expenses, or to the assessment of compensation or the amount of losses or expenses, in the said Sections shall be read as a reference to compensation or to the assessment of compensation as provided for in the Act and in this Scheme.

Nothing in this Clause shall apply to the winning of minerals by surface working.

Clause 77. (Extension of time for claiming compensation or betterment.) Add new Sub-clauses (2) and (3) as follows:—

(2) Where the claim arises under Section 78 of the Railways Clauses Acts as applied by Clause 6A (Special provisions as to underground minerals), the claim may be made within twelve months from the date of the expiration of the thirty days’ notice to be given by the owner, lessee or occupier of the mines or minerals as provided by the said Section.

(3) Where the claim arises under Section 81 or Section 82 of the Railways Clauses Act, as applied by Clause 6A (Special provisions as to underground minerals), the claim shall be made within twelve months from the date on which the expense, loss or damage referred to in those Sections was incurred or suffered.

4. Alternative Clause 16. (Number and sites of new streets to enter classified roads.)

16 (1). No street shall be laid out or made so as to enter any of the roads or proposed roads specified in Part I of the Table below.

(2). Save with the consent of the Council no new street shall be laid out or made so as to enter any of the roads or proposed roads specified in Part II of the Table below, except on land reserved for streets by this Scheme.

Table B.

Part I.

Existing or intended classified roads on which no street entrances are to be allowed.

Part II.

Existing or intended classified roads on which no new street entrances are to be allowed without the consent of the Council except on land reserved for streets.

(3) The Council may permit the entry into a road or proposed road specified in Part II of Table B of a new street which is required to provide temporary access from neighbouring land to the said road or proposed road pending the construction on land reserved for streets, or the entry with the consent of the Council in accordance with the provisions of the last preceding Sub-clause, of a street which will provide permanent access from the said land to the said road or proposed road.

Any street constructed to provide such temporary access is hereby declared to be diverted or stopped up and all public rights therein are declared to cease as from the date on which the street providing permanent access as aforesaid is constructed to the satisfaction of the Council and opened for public traffic.

(4). If the Council refuse consent to the laying out or making of a new street under Sub-clause (2) of this Clause any person who is aggrieved by the Council's decision on the ground that he is deprived thereby of a reasonable means of access from neighbouring land to a highway (in this Clause referred to as "the applicant") may submit representations in writing to the Minister together with a plan on a scale of not less than 6 inches to the mile showing the land, existing highways in the vicinity of the land, the highway to which access has been refused, and the new street to which the Council have refused consent.

(5). After considering any such representations, and, if a local Inquiry has been held, the report of the Inspector holding the Inquiry, the Minister shall inform the Council and the applicant of his decision on the representations.

(6) (a). If the Minister decides that any such representations are unjustified, he shall confirm the Council's refusal of consent and notify the applicant and the Council accordingly.

(b). If the Minister decides that the representations are justified, he shall so inform the Council and the applicant, and the Council may, if they think fit, withdraw their refusal of consent and shall within one month from the date of receiving notice of the Minister's decision notify the applicant and the Minister whether or not they withdraw their refusal of consent:

(c). If the Council decide not to withdraw their refusal of consent the applicant shall not be entitled to lay out or make the proposed new street and Sub-section (1) of Section 18 of the Act enabling compensation to be claimed shall apply:

(d). If the Council fail to notify the applicant and the Minister of their decision as required by paragraph (b) above, or if they decide to withdraw their refusal of consent, they shall be deemed to have given a consent under Sub-clause (2) of the Clause.

Clause 77 (Extension of time for claiming compensation or betterment). Add—

(1) Clause 16 (6) (b). (Number and sites of new streets to enter classified roads.)

(2) New paragraph between (b) and (c) as follows:—

In the case of a decision of the Council under Sub-clause (6) (b) of Clause 16 (Number and sites of new streets to enter classified roads) not to withdraw a refusal of consent, a period of 12 months from the date when the applicant is notified by the Council of their decision.

Clause 78 (Exclusion of claims for compensation). Substitute for paragraph relating to Clause 16—

Clause 16 (Number and sites of new streets to enter classified roads) except in a case where the Council decide under Sub-clause (6) (b) of the Clause not to withdraw a refusal of consent.

5. Alternative Clause 80. (Maintenance of registers and supply of copies of notices.)

80.—(1) As soon as may be after the Scheme comes into operation, and in any case within one month thereafter, the Council shall divide the register of owners and associations compiled under Sub-section (4) of Section 7 of the Act (hereinafter referred to as "the register") into portions, in such manner that there shall be one portion in respect of each district or part of a district within the Area of the Scheme, and

Maintenance of registers and supply of copies of notices.

that each portion shall contain the names and addresses of all persons registered in respect of property within the district or part of a district to which it relates, and the names and addresses of all registered associations.

The Council shall thereupon transfer the several portions of the register, other than the portion relating to their own district, to the Councils of the respective districts to which those portions relate, and the Council of each district shall thereupon be responsible for the maintenance of the register for that district or part of that district.

(2) Each Council having custody of a portion of the register shall, on application in writing being made to them, grant facilities for the inspection of that portion of the register by the County Council, or by any Council who are a Responsible Authority under this Scheme, or by any Joint Committee or Authority making, preparing or adopting a scheme, varying scheme, supplementary scheme, supplementary order or general development order in respect of land in the district of that Council, and for making copies of any entries in that portion of the register in respect of the said land.

(3) Where in pursuance of any provision of this Scheme notice by advertisement in a newspaper is given by the Council of anything done or proposed to be done, or any action taken or proposed to be taken under the Scheme, the provisions of Sub-section (7) of Section 7 of the Act shall apply so as to require the service by the Council of a copy of the notice on every person whose name and address appear in the register in respect of any property affected by the matter of which notice is given and on every association whose name and address appear in the register.

6. Alternative Clause 81. (Inspection of Scheme.)

81.—(1) The Council shall permit any Council who are a Responsible Authority under this Scheme or any person to inspect at any reasonable time the Scheme, the duplicate of the Map deposited in the offices of the Council, the agreements of which particulars are set out in the Fifth Schedule to this Scheme, the permissions of which particulars are set out in the Sixth Schedule to this Scheme, and any consents given by statutory undertakers under Section 41 of the Act. Inspection
of Scheme.

(2) A certified copy of the Map so far as it relates to the part of the Area within the district of any Council who are a Responsible Authority under this Scheme shall be furnished to that Council by the

Council, and each of those Councils shall cause the copy of the Map so furnished to them and a copy of the Scheme to be deposited at their offices, and shall permit any person to inspect such copies at any reasonable time.



